

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION
EFFICIENCY COMMITTEE

In the Matter of:)
)
Application for Certification) Docket No.
For the HIGH DESERT POWER PROJECT) 97-AFC-2
-----)

HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

THURSDAY, SEPTEMBER 16, 1999

10:00 a.m.

Reported By:

Debi Baker

Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

Robert A. Laurie, Commissioner, Presiding Member

David A. Rohy

Bob Eller, Commissioner Advisor

Stanley Valkosky, Hearing Officer

STAFF PRESENT

Paul Richins

Caryn Holmes, Staff Counsel

Roberta Mendonca, Public Adviser

APPLICANT

Allan J. Thompson
Attorney at Law

Thomas M. Barnett
Vice President and Project Manager

Andrew W. Welch
Project Director

ALSO PRESENT

Lizanne Reynolds, Representing CURE
Adams Broadwell Joseph & Cardozo

Gary A. Ledford, Builder

Andrew W. Bettwy
Southwest Gas Corporation

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 P R O C E E D I N G S

2 PRESIDING MEMBER LAURIE: Good morning.
3 Is our transcriber happy now? She is happy. Let
4 the record so reflect.

5 My name is Robert Laurie. I am
6 Presiding Member of the High Desert Siting
7 Committee. To my left is Mr. Stan Valkosky, who
8 is the Hearing Officer assigned to this case. To
9 Mr. Valkosky's left is Robert Eller. Mr. Eller is
10 Commissioner David Rohy's Senior Advisor.
11 Commissioner Rohy is my associate on the
12 Committee. He is detained elsewhere. He will be
13 here. His absence does not affect the ability of
14 this Committee to move forward at this time.

15 And there are some procedural matters
16 that we would like to have deal with first, and
17 for that I will turn the matter over to Mr.
18 Valkosky. After Mr. Valkosky's comments I want to
19 make sure that all parties and all members of the
20 audience are satisfied as to the process, and we
21 will inquire as to whether or not there are any
22 procedural questions.

23 Okay, Mr. Valkosky.

24 HEARING OFFICER VALKOSKY: Thank you,
25 Commissioner.

1 By way of background, I'd like to note
2 that the Committee initially scheduled these
3 hearings in a Notice and Order dated July 16th,
4 which was followed by a revised Notice and Order
5 of September 2nd. Today's hearing is formal in
6 nature, and its purpose is to receive evidence and
7 commence establishing the factual record necessary
8 to reach a decision in this case.

9 Procedurally, as today, and there is an
10 agenda which was e-mailed to the parties, and
11 copies of which are available in the back, the
12 first group of topics. To the Committee's
13 understanding, there have been no requests for
14 cross examination, and we'll proceed on these
15 topics one by one, accepting declarations on each
16 topic. If anyone has objection to that they
17 should so state at the time the individual topic
18 is called.

19 Following that set of topics, we'll go
20 to the next group of approximately eight topics,
21 which will have oral presentations. These topics,
22 the witnesses will testify under oath or
23 affirmation. The party sponsoring the witness
24 shall briefly establish the witness's
25 qualifications and have the witness orally

1 summarize the prepared testimony before requesting
2 that that testimony be moved into evidence.
3 Relevant exhibits may also be offered into
4 evidence at that time, as well.

5 At the conclusion of the direct
6 testimony, the Committee will provide other
7 parties an opportunity for cross examination,
8 followed by redirect and recross, if appropriate.
9 As warranted, multiple witnesses may testify as a
10 panel.

11 At the conclusion of each topic area we
12 will invite any members of the public to offer any
13 unsworn public comment they deem appropriate.

14 Are there any questions on the procedure
15 we're going to use today?

16 Okay. Matter of housekeeping. On the
17 revised agenda that you should all have I note
18 that under Hazardous Materials Management there
19 should be an indication of a desire to cross
20 examination -- of a desire, excuse me, to cross
21 examine by the California Unions for Reliable
22 Energy.

23 PRESIDING MEMBER LAURIE: In direction
24 to the parties at this time, we would like the
25 parties to identify themselves and note their

1 presence for the hearing, please.

2 I'll first call upon the Applicant. Mr.
3 Thompson, if you can introduce yourself and those
4 at your table, please.

5 MR. THOMPSON: Thank you very much, Mr.
6 Commissioner. My name is Allan Thompson. I'm
7 Project CEC Counsel for the High Desert Power
8 Project.

9 To my immediate right is Mr. Tom Barnett
10 of Constellation. He is the overall project
11 manager for the project developer. To his right
12 is Andy Welch, who is also with Constellation, and
13 has been with this project for probably longer
14 than he would like to tell all of us.

15 Also in the room we have Zoran
16 Rausavljevich, who is with Fluor, who is lead
17 engineer; Amy Cuellar, with RMI Navigant, who is
18 lead environmental. And, of course, our witnesses
19 for the day.

20 Thank you.

21 PRESIDING MEMBER LAURIE: Staff, please.

22 Oh, excuse me. Mr. Thompson, is your
23 client ready to proceed?

24 MR. THOMPSON: We are. I do have two
25 housekeeping issues that we can discuss now. Let

1 me flag them for you.

2 Until this morning we did not know that
3 Mr. Raschke on Paleo and Mr. Kanemoto on Visual
4 would be called. In the flurry of papers over the
5 last few days, it somehow escaped me. I wasn't in
6 the office yesterday. However, we would like to,
7 when we get to those areas, offer other witnesses
8 who we think can speak to the validity, and
9 possibly speak to the validity along with the
10 declarations filed.

11 If that is not sufficient for the
12 Committee, maybe at the time we can -- following
13 the testimony we can bring those witnesses back at
14 another time. We were -- I apologize. We were
15 under the impression that those areas would be
16 handled by declaration.

17 PRESIDING MEMBER LAURIE: Okay.
18 Anything else?

19 MR. THOMPSON: That's it. Thank you.

20 PRESIDING MEMBER LAURIE: Thank you.

21 Mr. Buell.

22 MR. BUELL: Yes. My name is Richard
23 Buell, I'm the Project Manager for the Energy
24 Commission, and to my left is Caryn Holmes, who is
25 Staff Counsel. And in the room we have present a

1 number of our witnesses today.

2 Also, I would like to mention that, like
3 Mr. Allan Thompson's staff has recently aware of
4 possible cross examination of our facility design
5 witnesses. I have three of the witnesses, or two
6 of the witnesses here today to cover that area.
7 But I think that that should suffice should any
8 party have any questions of our facility design
9 testimony.

10 PRESIDING MEMBER LAURIE: Thank you.
11 And is staff ready to proceed?

12 MR. BUELL: Yes.

13 PRESIDING MEMBER LAURIE: Thank you.
14 And Public Adviser, do you have any -- first,
15 please introduce yourself.

16 PUBLIC ADVISER MENDONCA: Thank you,
17 Commissioner Laurie. My name is Roberta Mendonca,
18 and I'm the Public Adviser of the California
19 Energy Commission.

20 PRESIDING MEMBER LAURIE: And are you
21 ready to proceed today?

22 PUBLIC ADVISER MENDONCA: Definitely
23 ready to proceed. Thank you.

24 PRESIDING MEMBER LAURIE: Thank you.
25 Mr. Ledford.

1 MR. LEDFORD: Thank you, Commissioner
2 Laurie.

3 My name is Gary Ledford, and just as --
4 I don't know if this is a housekeeping issue or
5 not, but my question is for witnesses that are
6 presented that I haven't specifically asked to
7 cross examine, would I still be allowed to cross
8 examine those witnesses when they're on the stand?

9 PRESIDING MEMBER LAURIE: Yes.

10 MR. LEDFORD: Then I'm ready to proceed.

11 PRESIDING MEMBER LAURIE: Thank you.

12 Mr. Valkosky.

13 HEARING OFFICER VALKOSKY: Thank you,
14 Commissioner.

15 I'm sorry.

16 MS. REYNOLDS: No room at the table.
17 Lizanne Reynolds, Counsel for CURE, and our
18 witness, Phyllis Fox, is in the building
19 somewhere. She will testify today, and we are
20 ready to proceed.

21 PRESIDING MEMBER LAURIE: There is a
22 spot for you at the table.

23 MS. REYNOLDS: Oh.

24 PRESIDING MEMBER LAURIE: Thank you,
25 Roberta.

1 MR. BETTWY: Commissioner, my name is
2 Andy Bettwy. I'm an attorney for Southwest Gas
3 Corporation. We're here ready to proceed,
4 although our witness, Mr. Provenza, who's in the
5 room, is scheduled to testify on the 30th on gas
6 pipeline construction.

7 PRESIDING MEMBER LAURIE: Thank you,
8 sir.

9 MR. BETTWY: Thank you.

10 PRESIDING MEMBER LAURIE: Any other
11 questions on process?

12 Mr. Valkosky.

13 HEARING OFFICER VALKOSKY: Thank you.
14 If you could all turn your attention to the draft
15 exhibit list. I believe all the parties have been
16 provided a copy of this. There are additional
17 copies in the back.

18 And essentially, what we've attempted to
19 do here is merely list in numerical order the
20 documents that the parties have identified as
21 exhibits they intend to move into the record at
22 future times, appears on the list. And again, I
23 want to stress that it only identifies the
24 exhibits. It doesn't indicate that they have been
25 received into the evidentiary record or not. Any

1 sponsorship and/or objection to particular
2 documents will be appropriate during the
3 particular topic to which that document applies.

4 What I'd like to do now is hear from the
5 parties as to whether there are any additions,
6 corrections, deletions to the tentative exhibit
7 list, so at least we'll all be working off of the
8 same list.

9 Mr. Thompson.

10 MR. THOMPSON: We have no additions to
11 this list. I don't think that we have filed
12 anything recently that rises to the level of
13 importance of an exhibit, so I think that this
14 list is fine with us.

15 HEARING OFFICER VALKOSKY: Okay. Mr.
16 Thompson, I do note that in one of your earlier
17 submittals you identified two documents, one as
18 Exhibit 24 and one as Exhibit 62, which I was
19 unable to retrieve. If you could provide further
20 identification of those exhibits, and copies.

21 MR. THOMPSON: These are both documents
22 which are cover letters to confidential material.
23 And I actually want to apologize, I should've
24 responded to an informal request and had these to
25 you earlier.

1 Earlier 24 is a Field Work Authorization
2 Request. It's actually executed by ELM, dated May
3 21, 1988.

4 HEARING OFFICER VALKOSKY: 1998?

5 MR. THOMPSON: '98. The case has been
6 going on a long time, but not that long.

7 Exhibit 62 is Addendum 2 to the Cultural
8 Resources Assessment of the Southwest Gas
9 Pipeline. Again, this is a confidential document
10 dated February 19, 1999.

11 HEARING OFFICER VALKOSKY: Is that
12 Addendum 2 to the Cultural Resource Assessment?

13 MR. THOMPSON: Right.

14 HEARING OFFICER VALKOSKY: Thank you.
15 Is that it?

16 MR. THOMPSON: Yes.

17 HEARING OFFICER VALKOSKY: Mr. Buell, or
18 Ms. Holmes.

19 MS. HOLMES: Thank you. We have two
20 additional documents that we'd like to have marked
21 as exhibits. The first is a letter from the
22 Department of Toxic Substances Control to Ms.
23 Jeanine Sharpless. The letter date is September
24 4th, 1998. The docket date is September 10th,
25 1998.

1 HEARING OFFICER VALKOSKY: Okay, we'll
2 identify that as Exhibit 107.

3 (Thereupon, the above-referenced
4 document was marked as Exhibit
5 No. 107 for identification.)

6 MS. HOLMES: Thank you.

7 The second item is a letter from the
8 California ISO to Tony Valarde of Southern
9 California Edison Company. The letter date is
10 October 8th, 1998, and the docket date is also
11 October 8th, 1998.

12 HEARING OFFICER VALKOSKY: Okay,
13 identify that as Exhibit 108.

14 (Thereupon, the above-referenced
15 document was marked as Exhibit
16 No. 108 for identification.)

17 MS. HOLMES: We have no further changes
18 or corrections.

19 HEARING OFFICER VALKOSKY: Ms. Reynolds,
20 anything from CURE?

21 MS. REYNOLDS: No changes.

22 HEARING OFFICER VALKOSKY: Mr. Ledford.

23 MR. LEDFORD: We discussed this briefly
24 yesterday, that I had submitted a rather extensive
25 wish list, I think is probably a -- primarily

1 because I'm not familiar with the process.

2 There are a number of items on this list
3 that I would like to see be listed as evidentiary
4 material, or evidence. Exhibits, I'm sorry.
5 However, most of these items could probably be
6 dealt with at the hearings that are directly
7 related to water issues, since I -- my primary
8 focus is on water issues.

9 I do have one, other than -- other than
10 the ones that I have actually submitted that would
11 be -- that at the time were non-docketed, and I
12 have submitted and circulated those items, which I
13 have numbered differently because I didn't
14 understand the process, either. And those would
15 be on my list, my current list, 125 through 136.
16 Would we do -- would we do this at the future
17 hearings, or if appropriate, if there's testimony
18 where those exhibits might be relevant beforehand,
19 introduce them at that time?

20 HEARING OFFICER VALKOSKY: Well, that
21 would be the time to sponsor them into evidence.
22 If you'd like them identified -- if you're sure
23 that those are documents that you intend to rely
24 on during future evidentiary hearings, we can
25 identify them today. Just give them a number --

1 MR. LEDFORD: All right.

2 HEARING OFFICER VALKOSKY: -- on our
3 numbering system, and at such time, in your case
4 probably water, that you wish to move them into
5 evidence, that will be the time to move them in
6 and get the reaction of the other parties.

7 MR. LEDFORD: Okay. Well, then I would
8 like --

9 HEARING OFFICER VALKOSKY: Okay.

10 MR. LEDFORD: Do we need to list them
11 one by one?

12 HEARING OFFICER VALKOSKY: Yeah.

13 MR. LEDFORD: The first one would be the
14 Fifth Annual Report to the Court for the Mojave
15 Water Adjudication, and I have circulated that to
16 the parties, with proof of service. And I believe
17 it's docketed, but I don't have a docket number at
18 this time.

19 HEARING OFFICER VALKOSKY: Okay. And
20 that is on your --

21 MR. LEDFORD: It would be Number 125.

22 HEARING OFFICER VALKOSKY: Number 125.
23 Okay. That's identified as the Fourth Annual
24 Report to the Court, Mojave Adjudication, selected
25 pages.

1 MR. LEDFORD: It's actually -- it's -- I
2 have an amendment to that. I'm using the Fifth
3 Annual Report.

4 HEARING OFFICER VALKOSKY: Fifth Annual
5 Report. Okay. We'll identify that as 109.

6 (Thereupon, the above-referenced
7 document was marked as Exhibit
8 No. 109 for identification.)

9 MR. LEDFORD: The next one would be the
10 Mojave Water Agency Water Management Plan, also
11 selected pages. It has also been circulated to
12 the parties, and has been docketed, but I don't
13 have a docket number.

14 HEARING OFFICER VALKOSKY: Okay. Is
15 that -- that's indicated on your exhibit list as
16 135?

17 MR. LEDFORD: It's now 126.

18 HEARING OFFICER VALKOSKY: Okay. All
19 right, we'll make that one --

20 MS. HOLMES: I'm sorry, excuse me, Mr.
21 Valkosky. Was it -- is that the item that was
22 identified as --

23 HEARING OFFICER VALKOSKY: It may be on
24 the previous --

25 MS. HOLMES: On 135, in the submittal

1 that we received?

2 HEARING OFFICER VALKOSKY: Yes.

3 MS. HOLMES: Okay. Thank you.

4 HEARING OFFICER VALKOSKY: Right. And
5 there's been a subsequent submittal, I assume, Mr.
6 Ledford?

7 MR. LEDFORD: I circulated by e-mail an
8 updated list, but I have not docketed it.

9 HEARING OFFICER VALKOSKY: Okay. But as
10 far as --

11 MR. LEDFORD: I received an e-mail from
12 you that said check your list.

13 HEARING OFFICER VALKOSKY: Right, yes.

14 MR. LEDFORD: And I checked my list, and
15 I found out there were some inaccuracies in it, so
16 I immediately fixed those, and -- and that was the
17 day before yesterday. So I --

18 HEARING OFFICER VALKOSKY: Okay. So the
19 document again, just so everyone is clear, the
20 document that we're now considering as Exhibit
21 Number 109, you had identified on your September
22 10th submittal as your Number 135?

23 MR. LEDFORD: I believe that's correct.
24 I don't have that --

25 HEARING OFFICER VALKOSKY: Okay. That's

1 --

2 MS. HOLMES: Excuse me. I think it's
3 110. I think -- I think it's the Commission's
4 110, or this proceeding's document 110. Exhibit
5 110.

6 HEARING OFFICER VALKOSKY: I'm sorry.

7 MR. LEDFORD: Oh, yes.

8 HEARING OFFICER VALKOSKY: Yeah, you're
9 -- I'm sorry.

10 MR. LEDFORD: Right, 110's the new
11 number.

12 HEARING OFFICER VALKOSKY: 110 is the
13 new number, yes. Yes.

14 (Thereupon, the above-referenced
15 document was marked as Exhibit
16 No. 110 for identification.)

17 HEARING OFFICER VALKOSKY: Okay. All
18 right.

19 MR. LEDFORD: The next one would be the
20 Master Plan for Delivery of Water, also selected
21 pages of public document, circulated to the
22 parties and docketed.

23 HEARING OFFICER VALKOSKY: Okay. We'll
24 identify that as Number 111, and on your September
25 10th submittal that appears to be the same

1 document that you had numbered 133.

2 MR. LEDFORD: Correct.

3 HEARING OFFICER VALKOSKY: Okay.

4 (Thereupon, the above-referenced
5 document was marked as Exhibit
6 No. 111 for identification.)

7 MR. LEDFORD: And the next one would be
8 the MWA Supreme Court Opening Brief, selected
9 pages, also a public document. Circulated to the
10 parties and docketed.

11 HEARING OFFICER VALKOSKY: Okay. For
12 our purposes it'll be Exhibit 112, and on your
13 September 10th submittal you identified that as
14 Exhibit 128. Correct?

15 MR. LEDFORD: Correct.

16 HEARING OFFICER VALKOSKY: Okay.
17 (Thereupon, the above-referenced
18 document was marked as Exhibit
19 No. 112 for identification.)

20 MR. LEDFORD: The next one would be a
21 graphic showing decline in water. It's a single
22 page, circulated to the parties.

23 HEARING OFFICER VALKOSKY: Okay. We'll
24 identify that as Exhibit 113. You had previously
25 identified that as Exhibit 130; correct?

1 MR. LEDFORD: Correct.

2 (Thereupon, the above-referenced
3 document was marked as Exhibit
4 No. 113 for identification.)

5 MR. LEDFORD: The next one will be USGS
6 Report 95-4189, selected pages, a public document,
7 circulated to the parties and docketed.

8 HEARING OFFICER VALKOSKY: Okay, we'll
9 identify that as 114. That's your previous number
10 131? Correct? Correct, Mr. Ledford?

11 MR. LEDFORD: Correct.

12 HEARING OFFICER VALKOSKY: Okay.
13 (Thereupon, the above-referenced
14 document was marked as Exhibit
15 No. 114 for identification.)

16 MR. LEDFORD: And I have listed an
17 exhibit that is not available today, but I expect
18 it is going to be available based on information
19 from the USGS. And --

20 HEARING OFFICER VALKOSKY: At -- you can
21 introduce it at such time as it's available.

22 MR. LEDFORD: At a later date? Fine.

23 The next one would be water pricing,
24 MWA, August 23rd. It's been circulated -- I
25 believe it's been circulated to the parties.

1 Some of these -- some of these exhibits
2 I just haven't got out yet.

3 HEARING OFFICER VALKOSKY: Okay. I'll
4 remind you that you do have to --

5 MR. LEDFORD: I understand.

6 HEARING OFFICER VALKOSKY: -- proof and
7 docket them.

8 MR. LEDFORD: I understand that.

9 HEARING OFFICER VALKOSKY: Okay.

10 MR. LEDFORD: I'm -- I still have some
11 time on my order, I think.

12 HEARING OFFICER VALKOSKY: Right. Okay.
13 We'll assign that number for identification
14 purposes of 115. And that was on your list
15 Exhibit 134; correct?

16 MR. LEDFORD: Correct.

17 (Thereupon, the above-referenced
18 document was marked as Exhibit
19 No. 115 for identification.)

20 MR. LEDFORD: The next item would be the
21 Environmental Impact Report, George Air Force Base
22 Re-Use Plan, selected pages, a public document.
23 It has not been circulated. I will get that out.

24 HEARING OFFICER VALKOSKY: Okay. We'll
25 identify it as Exhibit 116, and I'll just note

1 that it was -- you had previously identified it as
2 136.

3 (Thereupon, the above-referenced
4 document was marked as Exhibit
5 No. 116 for identification.)

6 MR. LEDFORD: And the next one is the
7 Declaration of Norm Caouette. And it has not been
8 circulated, but I will circulate it.

9 HEARING OFFICER VALKOSKY: What's the
10 date of the Declaration?

11 MR. LEDFORD: I don't have it. I don't
12 have it handy. But I -- I may have that, hang on
13 one second.

14 I'm sorry, I don't have it available at
15 this moment.

16 HEARING OFFICER VALKOSKY: Okay.
17 Tentatively we'll identify that as Exhibit 117.

18 (Thereupon, the above-referenced
19 document was marked as Exhibit
20 No. 117 for identification.)

21 HEARING OFFICER VALKOSKY: I take it
22 none of these documents, especially the ones that
23 have not been circulated to the parties, are
24 pertinent to today's topics; is that correct?

25 MR. LEDFORD: I don't believe so.

1 HEARING OFFICER VALKOSKY: Okay.

2 MR. LEDFORD: And if they are, then
3 we'll have to deal with that, I guess.

4 I do have a document that I haven't --
5 that I have this morning with me, and it is
6 minutes from the Mojave Water Agency Planning and
7 Resources Committee Workshop, dated August 16th,
8 1989, with a --

9 HEARING OFFICER VALKOSKY: 1989?

10 MR. LEDFORD: I'm -- '99, I'm sorry,
11 '99, with a cover letter to the Board of Directors
12 dated September 14th, '99. I'm suggesting this be
13 one exhibit. And it's titled, "Consideration of
14 Establishment of a Policy for 100 Percent
15 Consumptive Use." I have copies that I can make
16 available. It has not been docketed yet.

17 HEARING OFFICER VALKOSKY: Okay. Again,
18 if you can docket it and make sure that all
19 parties are provided with copies. We'll
20 tentatively identify that as Exhibit 118.

21 (Thereupon, the above-referenced
22 document was marked as Exhibit
23 No. 118 for identification.)

24 MR. LEDFORD: That is the extent of my
25 exhibits at this time.

1 HEARING OFFICER VALKOSKY: Thank you.

2 Mr. Bettwy, do you have any exhibits?

3 MR. BETTWY: Nothing further. Thank you
4 very much.

5 HEARING OFFICER VALKOSKY: Thank you.

6 Any other party?

7 Anything more to discuss on the exhibit
8 list? Thank you.

9 I'd also note we're still on
10 housekeeping, that we have received notice from
11 CURE for future hearings. They have deleted Dr.
12 Fox as a witness on air quality. Is that correct,
13 Ms. Reynolds?

14 MS. REYNOLDS: That is correct. Our air
15 quality testimony was John.

16 HEARING OFFICER VALKOSKY: Okay. And I
17 don't -- we'll deal with that in about three
18 weeks.

19 We also have three subpoenas, requests
20 for subpoena, excuse me, which Mr. Ledford has
21 filed, and a document entitled "Time Estimate"
22 which deals with extending the day -- extending
23 the times available for the October 7th and 8th
24 hearings dealing with air, water, and biology.

25 Before we address these, are there any

1 other matters, procedural matters that need to
2 come to the Committee's attention?

3 There are not. Are the parties -- do
4 the parties have copies of the request for
5 subpoena?

6 MR. THOMPSON: We do not.

7 MS. REYNOLDS: No.

8 HEARING OFFICER VALKOSKY: Okay. Well,
9 we can proceed in a couple of ways. We can have
10 Mr. Ledford make his presentation at this point,
11 and the parties can respond after lunch. We can
12 have Mr. Ledford provide you copies of it, and
13 just deal with it after lunch. What are your
14 preferences? Mr. Thompson.

15 MR. THOMPSON: Can we find a little bit
16 more about these before I answer that? The little
17 that I know about it so far sounds like we should
18 also hear from MWA. I don't know who the
19 individuals are that are being requested.

20 HEARING OFFICER VALKOSKY: Okay.

21 MR. THOMPSON: And maybe if we could
22 find a little bit more, and then if you ask the
23 question I'll be more prepared to answer.

24 HEARING OFFICER VALKOSKY: Okay. Well,
25 why don't we just -- Mr. Ledford, why don't you

1 flesh out -- provide the parties information on
2 your request. If Ms. Mendonca could also provide
3 a copy -- parties with copies of these requests
4 for subpoena, I think it would probably be best if
5 we deal with it after lunch.

6 Okay, Mr. Ledford?

7 MR. LEDFORD: The three parties that I
8 have requested subpoenas for are the General
9 Manager for the Mojave Water Agency and Mr. Norman
10 Caouette, who is the Environmental Review Officer
11 from the Mojave Water Agency.

12 I attempted to solicit their voluntary
13 attendance at the October 8th/9th hearings, and to
14 actively participate as witnesses. Mr. Norman
15 advised me that he was willing, but he needed to
16 seek advice from counsel. And Mr. Caouette
17 advised me that he was unwilling, and he did not
18 believe that the Energy Commission had subpoena
19 power over him.

20 Mr. Caouette has been an environmental
21 person with the Mojave Water Agency for a period
22 of perhaps as long as ten years, and he has
23 sponsored comments, environmental review
24 documents, numerous environmental review
25 documents, and participated in a number of

1 different cases, the most significant of which was
2 the Base Re-Use EIR for George Air Force Base and
3 the Vita Redevelopment Plan.

4 The Mojave Water Agency sued Vita over
5 water issues, and there was ultimately a
6 settlement agreement in that case. And those
7 issues are pertinent and -- and a direct
8 underpinning to the water issues in this case.
9 And he is an instrumental witness in regard to the
10 water issues and how the Mojave Water Agency may
11 or may not be able to deliver water.

12 And Mr. Caouette was a very significant
13 participant in the water adjudication proceeding,
14 which also dealt with the replacement water issues
15 and how the overdraft basin was going to be cured.

16 So I believe that he is a very
17 instrumental witness.

18 Mr. Norman, who is the brand-new general
19 manager -- do you want me to do these one at a
20 time and stop? Take -- take a break?

21 HEARING OFFICER VALKOSKY: I just -- I
22 think I just have a general question, and that is
23 what additional information would these gentlemen
24 provide that will not be provided by either the
25 Applicant's witness or the staff's witness?

1 MR. LEDFORD: A lot. And -- and
2 specifically, the staff's analysis of the water
3 issues, as I understand them, do not address -- do
4 not address the cumulative impacts of the existing
5 overdraft. They do not -- they do not address the
6 -- what's going to happen in the well fields that
7 are being overdrafted over the next 30 years, as
8 by way of example, the modeling is -- is an in
9 vacuum modeling analysis. In other words, it
10 deals with the High Desert Power Project as if
11 there is no other well production in the entire
12 area.

13 So if -- if you take that analysis and
14 say, you know, this should work fine, but the
15 wells go dry in the process, that doesn't work.

16 These -- these -- both of these people
17 are -- have backgrounds in this area. They -- at
18 this point they have -- have not offered testimony
19 when they probably should have, and -- however, in
20 previous environmental reviews they have taken
21 very hard stands on those issues. For some
22 reason, in this particular case they're not taking
23 a stand.

24 And as my papers have indicated over the
25 years -- I mean, over the months here, the last

1 eight, nine months that I've been involved, the
2 concern is on a 100 percent consumptive use water
3 on a very limited entitlement to water that the
4 MWA has, and delegating that much water to a
5 consumptive use for a power plant, when the
6 contract -- that's the best deal that Mojave Water
7 Agency can give to a water purveyor, not to the
8 High Desert Power Project, but to a water purveyor
9 that would subsequently provide water as an annual
10 contract. That's the best deal that they can get.

11 So my significant issue is how do you
12 get an uninterruptible water supply for 30 years
13 for this power project when we've got a water
14 basin that needs to be fixed. And we have an
15 underlying environmental document that says you
16 got to fix it, you got an underlying judgment that
17 says you have to fix it, and everybody's ignoring
18 it.

19 And we have a water agency that -- that
20 has three directors that think it ought to be
21 addressed and three directors that think they
22 ought to continue to dodge the bullet. So I think
23 we ought to have some testimony from these people.
24 I do think it's significant and extremely
25 important.

1 HEARING OFFICER VALKOSKY: Okay. That's
2 fine. And as I say, we'll address these after
3 lunch, after the parties have had -- had time to
4 digest your -- your request.

5 MR. LEDFORD: Well, that's on two.

6 HEARING OFFICER VALKOSKY: Right. And
7 now for Dr. Fox.

8 MR. LEDFORD: Dr. Fox is -- has provided
9 some very significant reports in this -- in this
10 case, done an excellent job of identifying issues.
11 Some of those issues have never been addressed by
12 staff. And -- and she provided a report on well
13 interference back in 1998, which I only received
14 about a week and a half ago, that is absolutely
15 excellent. And it addresses issues that have
16 never been addressed in the modeling of the -- of
17 the wells.

18 That is a docketed -- excuse me, a
19 docketed report. It is available for the public
20 to rely on. It was provided by CURE. They did an
21 excellent job. I think that she's a valuable
22 witness to testify as to what those issues are in
23 relation to well interference.

24 In addition to that, she provided a --
25 what was listed as a preliminary report on dry

1 cooling. In the early stages of this case I
2 submitted document request to the High Desert
3 Power Project asking for information on -- on the
4 costs and expenses, and how to develop what the
5 cost benefits were on the -- on the dry cooling
6 process. And I got no information. In fact, I --
7 the response from High Desert Power Project was
8 that all the information was proprietary and they
9 couldn't give me any of the things that I asked
10 for.

11 Of course, the process had been going
12 along for some time, and CURE had already been
13 involved in the process, and they had got quite a
14 bit of that information. And that information not
15 only came as a preliminary report, but a number of
16 exhibits to that report that had to do with
17 obtaining cost estimates that she did, and that --
18 that information is also a public document. It
19 has been docketed in this case. And I -- I think
20 that Dr. Fox is a valuable witness, and CURE did
21 an excellent job.

22 And I think that she should be made
23 available to testify as to that, and the staff
24 should be made available to tell us why they
25 didn't address those issues that Dr. Fox advanced

1 here in this case.

2 HEARING OFFICER VALKOSKY: Well,
3 regardless of the outcome of your request for
4 subpoena, the staff will be available.

5 MR. LEDFORD: Oh, I -- I understand
6 that.

7 HEARING OFFICER VALKOSKY: Yeah.

8 MR. LEDFORD: And I assume that the --
9 that the document speaks for itself, so we can
10 deal with it if she doesn't show up.

11 HEARING OFFICER VALKOSKY: Okay. The
12 parties feel that they have enough background on
13 the reasons for Mr. Ledford's request to address
14 it after lunch? Mr. Thompson?

15 MR. THOMPSON: Yes, I believe so.

16 HEARING OFFICER VALKOSKY: Okay. Ms.
17 Holmes, Ms. Reynolds, are you satisfied that you
18 can address this after lunch?

19 MS. HOLMES: Yes, we are. Thank you.

20 MS. REYNOLDS: This is Lizanne Reynolds.

21 I'm not familiar with the Commission's
22 subpoena powers, and I was unprepared for this
23 issue. I just learned about it this morning. So
24 I would like a little bit more time to figure out
25 what the legal parameters are of this. Maybe

1 someone could fill me in.

2 HEARING OFFICER VALKOSKY: Okay. Real
3 -- real quick, go to our regulations, Section
4 1203, I believe it's subdivision (b), which is the
5 general subpoena section. And also, the revised
6 Administrative Procedures Act, Article 11,
7 beginning with Section 11450.05.

8 Those are general subpoena sections.
9 Your status as a party, however, would probably
10 make Section 1716, I believe it's subdivision (c),
11 more relevant.

12 PRESIDING MEMBER LAURIE: Question of
13 the Hearing Officer. Who pays costs, Mr.
14 Valkosky? I don't believe costs are addressed in
15 our regulations.

16 HEARING OFFICER VALKOSKY: They're not
17 addressed in our regulations. Using the model of
18 the Administrative Procedures Act, it would be the
19 subpoenaing party which pays mileage and witness
20 fees, in accordance with the provisions of the
21 Code of Civil Procedure.

22 PRESIDING MEMBER LAURIE: Okay. So it
23 is your belief that the Code of Civil Procedure
24 controls and is relevant, and those costs due
25 those subpoenaed as equally applicable in this

1 instance?

2 HEARING OFFICER VALKOSKY: That is
3 correct.

4 PRESIDING MEMBER LAURIE: Thank you.

5 Just a quick question of -- do you
6 folks, would you like to be separated? I mean,
7 it's not fair for you to sit there while
8 potentially adversary parties are sitting right
9 next to you. I would feel uncomfortable. Would
10 you like to move to the other end of the table, or
11 would you like a separate seating arrangement, if
12 Mr. Ledford wants to open up his PC and -- and
13 it's really not fair. I'd be happy to entertain
14 such a request. And I would -- I would be for it,
15 if I were you, but it's certainly up to you.
16 There's no reason why you should have to feel
17 cramped.

18 MR. THOMPSON: Mr. Commissioner, there's
19 another table back in the anteroom. Maybe if we
20 could extend the length of the table they could
21 spread out or put the staff between them, or
22 something.

23 PRESIDING MEMBER LAURIE: Okay, you --

24 MS. REYNOLDS: This is Lizanne Reynolds
25 from CURE. I don't have a problem, but I am

1 willing to shuffle around if someone else does.

2 PRESIDING MEMBER LAURIE: Okay, great.

3 That's fine, then.

4 MR. LEDFORD: I don't have a problem,
5 either.

6 PRESIDING MEMBER LAURIE: That's fine.

7 Thank you.

8 MR. LEDFORD: Does that mean I'm
9 shuffled around whether I like it or not?

10 (Laughter.)

11 PRESIDING MEMBER LAURIE: No. Mr.
12 Ledford has indicated that he would just as soon
13 stay right where he is.

14 MR. LEDFORD: I just -- I don't have any
15 secrets, and my only disagreement with CURE is
16 whether they bring a witness. I think they've
17 done a fabulous job.

18 HEARING OFFICER VALKOSKY: I'm pleased
19 to note that while we have an adversarial
20 relationship it is a civil relationship. That's
21 good.

22 Okay. And again, Mr. Ledford, if you
23 could be sure to provide the parties copies of
24 your request for subpoena, or --

25 MR. LEDFORD: They have gone out in the

1 mail. The fact that they haven't received them, I
2 Federal Expressed them up here to the Commission.

3 HEARING OFFICER VALKOSKY: Right. No, I
4 understand that, and I mean if --

5 MR. LEDFORD: And so they went in
6 regular mail, probably, to everybody else.

7 HEARING OFFICER VALKOSKY: -- you know,
8 the parties -- I'd like the parties to react to
9 these after lunch today, so --

10 MR. LEDFORD: Oh.

11 HEARING OFFICER VALKOSKY: -- so they'll
12 need the party -- the documents as soon as
13 possible. I believe Ms. Mendonca can help you in
14 that regard.

15 MR. LEDFORD: Is she here?

16 HEARING OFFICER VALKOSKY: She just
17 stepped out.

18 MR. LEDFORD: Because she has -- she
19 has, and I probably don't.

20 HEARING OFFICER VALKOSKY: Okay.

21 MR. LEDFORD: I have it on my computer.

22 HEARING OFFICER VALKOSKY: Okay. I'm
23 sure she'll assist.

24 All right. The final procedural
25 document is -- and I just received this this

1 morning, but again, it's from Mr. Ledford, and
2 it's entitled "A Time Estimate". Would you care
3 to explain to the Committee?

4 MR. LEDFORD: The only purpose of that
5 is that you have scheduled two days of hearings
6 for water, biological resources, and the like.
7 And my best time estimate for the -- for the
8 witnesses that I intend to advance or expect to
9 cross examine is pretty much the full two-day time
10 period.

11 I don't know how accurate my estimates
12 are, because, again, this is my first -- my first
13 time to do this. However, depending on what the
14 level of interest of this Commission is and what
15 the -- what other kinds of evidence may be
16 admitted, it could be significantly longer.

17 So really, the only reason for that is a
18 notice to say it might take longer, and I just
19 want to let people know what my time estimate is.

20 HEARING OFFICER VALKOSKY: Okay, and I
21 --

22 MR. LEDFORD: And I -- I am not looking
23 for an action.

24 HEARING OFFICER VALKOSKY: Okay. I'd
25 also note that October 7th and 8th we're also

1 hearing air quality and biological resources, as
2 well as the water issues.

3 MR. BETTWY: I have questions on those
4 areas, as well.

5 HEARING OFFICER VALKOSKY: So
6 fundamentally, you think that's going to take more
7 than two days. That's -- I mean, that's what it
8 comes down to.

9 MR. LEDFORD: I think it's going to take
10 all of -- first of all, it's kind of listed as one
11 day with a contingent second day. And so I want
12 to make sure everybody comes down for two nights.
13 I'm really sure it's going to be two days.

14 HEARING OFFICER VALKOSKY: Okay. Mr.
15 Thompson, do you think the -- that two days are
16 sufficient, or not?

17 MR. THOMPSON: Even in those
18 circumstances in my career when I've been asked to
19 prolong hearings through cross examination I have
20 not been very successful. I think conducting
21 cross examination is very difficult, and for that
22 reason I suspect that these time estimates may be
23 lengthier than what we would actually see.

24 I -- I guess I would urge that we keep
25 the two days, and be prepared to go into the

1 evening, if necessary.

2 HEARING OFFICER VALKOSKY: Ms. Holmes?

3 MS. HOLMES: It's hard for me to
4 estimate how long Mr. Ledford's cross examination
5 is --

6 HEARING OFFICER VALKOSKY: No, I -- I'm
7 talking about having the two days to consider the
8 three topics that we have on the agenda for those
9 days.

10 MS. HOLMES: With or without cross
11 examination from --

12 HEARING OFFICER VALKOSKY: For the total
13 presentation. Direct, cross examination,
14 everything that goes along with it, for those
15 three topics on the two scheduled days.

16 MR. BUELL: I think staff would agree
17 with the assessment of Mr. Thompson, and that if
18 necessary we should plan on being available in the
19 evenings of both of those days to conduct those
20 hearings, so that I think there's a good
21 possibility we could complete -- complete it, with
22 that proviso.

23 HEARING OFFICER VALKOSKY: Okay. Ms.
24 Reynolds?

25 MS. REYNOLDS: We would agree with the

1 statements by staff and the Applicant.

2 (Inaudible asides.)

3 HEARING OFFICER VALKOSKY: Okay. Are
4 there any other procedural housekeeping,
5 administrative matters before we get into the
6 evidentiary portion?

7 All right. The first set of topics
8 we'll deal with are those which presumably may be
9 taken by declaration. The first of those topics
10 is Compliance and Closure.

11 Mr. Thompson.

12 MR. THOMPSON: Thank you, Mr. Valkosky.

13 Exhibit 102 to this proceeding has been
14 identified as the Declarations of Applicant's
15 witnesses. We submitted declarations for all of
16 our witnesses in Compliance and Closure, Land Use,
17 Noise, Public Health, Transmission Line Safety and
18 Nuisance, and Worker Safety, which were the areas
19 that were identified as those being eligible for
20 declaration without any further statements or
21 action by staff.

22 We also submitted in that document
23 declarations on Demand Conformance, Facility
24 Design, Hazardous Materials, Paleontology, and
25 Visual, which were the second set of categories

1 which we would hope would be moved -- the evidence
2 would be moved into the record by declaration,
3 given that the staff had certain information
4 requirements that they were going to be providing
5 to this Commission.

6 Given those declarations, and -- and
7 also given the fact that we have reviewed staff's
8 subsequent additions to the record along with
9 their declarations, and speaking for Applicant, we
10 agree with them. We have no issues with staff's
11 later testimony and statements.

12 I would ask that, first of all,
13 Compliance and Closure be put into the record by
14 Declaration.

15 HEARING OFFICER VALKOSKY: Is there
16 objection?

17 Applicant's portions of the exhibits
18 identified as Declarations are hereby admitted.

19 (Thereupon, Applicant's Declarations
20 on Compliance and Closure contained
21 in Exhibit 102 were admitted into
22 evidence.)

23 HEARING OFFICER VALKOSKY: Ms. Holmes.

24 MS. HOLMES: Thank you. Staff's
25 estimate --

1 HEARING OFFICER VALKOSKY: Ms. Holmes,
2 just hold on one minute.

3 (Inaudible asides.)

4 HEARING OFFICER VALKOSKY: I'm sorry.
5 Ms. Holmes, before I get to you, Commissioner
6 Laurie points out, makes a very valid point.

7 Mr. Ledford, do you understand what
8 we're doing here?

9 MR. LEDFORD: I believe I do. I -- at
10 this point you're -- once you move this into the
11 record and everybody agrees it's like a stipulated
12 item, and there's no further testimony. Is that
13 correct?

14 HEARING OFFICER VALKOSKY: Correct. And
15 the materials identified in the declarations and
16 the accompanying documents, these refer back to
17 certain portions in most cases of exhibits, will
18 be received as -- as evidence. The Committee will
19 then be entitled to use those documents as the
20 basis for its decision on that portion. On that
21 topic covered.

22 MR. LEDFORD: I understand. I -- as if
23 it were testimony.

24 HEARING OFFICER VALKOSKY: Right,
25 exactly. Okay?

1 MS. HOLMES: Thank you.

2 Staff's testimony on Compliance and
3 Facility Closure is found in the staff assessment,
4 which is Exhibit 82, and in Errata which were
5 filed March 19th, '99, that's Exhibit 83. The
6 witness qualifications on the declaration
7 accompanying that testimony are found in Exhibit
8 104.

9 HEARING OFFICER VALKOSKY: Is there
10 objection to admitting a portion of the specified
11 exhibits into evidence?

12 There is none. They're admitted.

13 (Thereupon, Staff's Declarations on
14 Compliance and Closure contained in
15 Exhibits 82, 83, and 104 were
16 were admitted into evidence.)

17 HEARING OFFICER VALKOSKY: Is there any
18 further comments from anyone, party or otherwise,
19 on the topic of Compliance and Closure?

20 Hearing no comments, move on to the next
21 topic, Demand Conformance.

22 Mr. Thompson.

23 MR. THOMPSON: Demand Conformance is an
24 area that we submitted a declaration by Mr. Thomas
25 Barnett. And I know that there has been a staff

1 update that we agree with. We would move that the
2 Demand Conformance area be admitted into the
3 record by Declaration.

4 HEARING OFFICER VALKOSKY: Objection?

5 No objection. That'll be admitted into
6 evidence.

7 (Thereupon, Applicant's Declaration on
8 Demand Conformance contained in Exhibit
9 102 was admitted into evidence.)

10 HEARING OFFICER VALKOSKY: Ms. Holmes?

11 MS. HOLMES: Thank you. Staff testimony
12 on Need Conformance is found in Exhibit 104. The
13 witness qualifications and the Declaration that
14 accompany that are found in Exhibit 105.

15 HEARING OFFICER VALKOSKY: And I take it
16 the Exhibit 104 replaces that portion of Exhibit
17 82, the staff assessment?

18 MS. HOLMES: Yes, it does.

19 HEARING OFFICER VALKOSKY: Is there any
20 objection to receiving that into evidence?

21 Hearing none, that will be received.

22 (Thereupon, Staff's Declaration on
23 Demand Conformance contained in
24 Exhibits 104 and 105 were admitted
25 into evidence.)

1 HEARING OFFICER VALKOSKY: Are there any
2 comments on the topic of Demand Conformance from
3 anyone here present?

4 The next topic is Land Use.

5 MR. THOMPSON: Thank you, sir.

6 Under the topic of Land Use, Applicant
7 submitted Declarations of both Ms. Amy Cuellar and
8 Mr. John Cook, contained in Exhibit 102. We would
9 ask that the Land Use area be submitted to the
10 record by Declaration.

11 HEARING OFFICER VALKOSKY: Objection?

12 Hearing none, so ordered.

13 (Thereupon, Applicant's Declaration on
14 Land Use contained in Exhibit 102 was
15 admitted into evidence.)

16 HEARING OFFICER VALKOSKY: Ms. Holmes.

17 MS. HOLMES: Thank you. Staff's
18 testimony on Land Use is found in Exhibit 82, and
19 the Declaration of witness qualifications that
20 accompany that are found in Exhibit 104.

21 HEARING OFFICER VALKOSKY: Is there
22 objection to admitting those into the evidentiary
23 record?

24 No objection.

25 ///

1 (Thereupon, Staff's Declaration on Land
2 Use contained in Exhibits 82 and 104
3 were admitted into evidence.)

4 HEARING OFFICER VALKOSKY: Any other
5 comments from anyone here present on the topic of
6 Land Use?

7 MR. LEDFORD: Yes, I have comments.

8 I'd like to point the Commission to --
9 and I'm not -- not sure that this is the correct
10 procedure, so maybe I'm getting my feet wet here.
11 But in the Land Use portion of the -- of the
12 staff's testimony, water supply pipelines and
13 cumulative impacts of water are addressed, but
14 there are issues relative to the cumulative
15 impacts of 4,000 acre feet of consumptive use
16 which have been addressed not only by myself, by
17 CURE, and by several of the water districts who
18 have docketed letters which were submitted by
19 Michael Davis as attorney for those water
20 districts on that particular issue.

21 I would think that something probably
22 should be -- should be looked at within those --
23 within those areas.

24 HEARING OFFICER VALKOSKY: I'm sorry.
25 Mr. Ledford, could you specify?

1 MR. LEDFORD: Page 130 and 131, is what
2 I'm looking at.

3 HEARING OFFICER VALKOSKY: Okay.

4 MR. LEDFORD: In the January 20th, 1999

5 --

6 HEARING OFFICER VALKOSKY: Right, the
7 staff assessment that we identified as Exhibit 82.
8 Okay. And specifically?

9 MR. LEDFORD: I have -- I had explained
10 on -- on the potential of the underlying
11 environmental impact report that was prepared for
12 George Air Force Base that particular
13 environmental document addressed the potential for
14 VITA of 40,000 acre feet of water for the project
15 alone. Again, that -- that environmental document
16 was challenged by the MWA, there was a lawsuit.
17 There was an ultimate settlement agreement. And
18 the settlement agreement required that each
19 individual project that was going to be undertaken
20 by VITA at George Air Force Base have a separate
21 environmental analysis and a proof of water
22 availability for the project.

23 And this particular project, this High
24 Desert Project, was never addressed in the
25 underlying EIR, so in order to study what the

1 cumulative impacts of this project, the High
2 Desert Project, are in relation to the overall
3 VITA project you'd have to do a cumulative impact
4 study.

5 And it's sort of sketchy here on page
6 131 about cumulative impacts. It's sort of
7 sketchy in the water supply and pipeline --

8 HEARING OFFICER VALKOSKY: Okay. Would
9 you -- do you desire to have a staff witness
10 appear so that you can question that witness on
11 this topic?

12 MR. LEDFORD: Again, I'm a little
13 unclear as to -- a great deal of the staff's
14 testimony in a number of different areas relates
15 to water. And in some cases, we're going to get
16 to that shortly, where there's been errata filed
17 that a staff person has taken a position about
18 water conservation and -- and the Water Resources
19 Code 7558, as a matter of example, and in
20 compliance with the rules and laws. So I don't --

21 HEARING OFFICER VALKOSKY: Right.

22 MR. LEDFORD: -- this whole report, you
23 know, creates one gigantic document at some point,
24 and --

25 HEARING OFFICER VALKOSKY: Right, and I

1 -- and my specific question is, if you have
2 reservations about what staff is sponsoring, you
3 may --

4 MR. LEDFORD: Examine that witness.

5 HEARING OFFICER VALKOSKY: -- examine
6 that witness, if that is your desire. And that's
7 my question right now. Do you want staff to
8 produce -- I believe it's Mr. Flores, on Land Use,
9 so that you may question him?

10 MR. LEDFORD: I guess I would have to
11 say yes, since it's led -- I'm not objecting to
12 what they've done, I'm more objecting to what they
13 haven't done. And it's not an objection to the
14 evidence, what they've done, because I think
15 that's okay. I just don't think they've done
16 enough.

17 HEARING OFFICER VALKOSKY: Okay.

18 MR. LEDFORD: And I'm not sure that this
19 is the place to do it.

20 HEARING OFFICER VALKOSKY: Well, no,
21 this --

22 MR. LEDFORD: Maybe it is.

23 HEARING OFFICER VALKOSKY: If it appears
24 in this particular topic, this is the place to do
25 it.

1 MR. LEDFORD: All right.

2 HEARING OFFICER VALKOSKY: Okay?

3 MR. LEDFORD: Thank you.

4 HEARING OFFICER VALKOSKY: Ms. Holmes,
5 can you produce Mr. Flores either this morning or
6 this afternoon?

7 MS. HOLMES: I can check. I have no
8 idea at this point. One possibility, of course,
9 is to -- would be to move cross examination of Mr.
10 Flores to the next hearing date if he's not
11 available today. But I will check --

12 HEARING OFFICER VALKOSKY: That -- that
13 is a possibility, but I'd just as soon schedule it
14 today, if possible. But certainly we can -- we
15 can deal with it on another day if he is
16 unavailable.

17 MS. HOLMES: I will let you know which
18 will work after lunch.

19 HEARING OFFICER VALKOSKY: Okay, thank
20 you.

21 Okay. Land Use will remain open.

22 The next topic is Noise. Mr. Thompson.

23 MR. THOMPSON: Thank you. Again,
24 Exhibit 102, which contains the Declarations of
25 Applicant, we submitted Declarations for Mr.

1 Buntin and Mr, Rausavljevich in the area of Noise,
2 and we would request that the Noise testimony be
3 submitted by Declaration.

4 HEARING OFFICER VALKOSKY: Is there
5 objection?

6 Hearing none, so ordered.

7 (Thereupon, Applicant's Declarations on
8 Noise contained in Exhibit 102 were
9 admitted into evidence.)

10 HEARING OFFICER VALKOSKY: Ms. Holmes.

11 MS. HOLMES: Thank you. Staff's
12 testimony on Noise is found in Exhibit 82, with
13 Errata found in Exhibit 85. The witness
14 qualifications and Declaration are found in
15 Exhibit 104.

16 HEARING OFFICER VALKOSKY: Is there
17 objection to receiving those items into the
18 record?

19 There's no objection.

20 (Thereupon, Staff's Declaration on
21 Noise contained in Exhibits 82, 85, and
22 104 were admitted into evidence.)

23 HEARING OFFICER VALKOSKY: Are there any
24 other comments, observations, on the topic area of
25 Noise?

1 MR. LEDFORD: If I can.

2 HEARING OFFICER VALKOSKY: You may.

3 MR. LEDFORD: I would like to try not to
4 -- to have this witness, but I would like to point
5 out to the Commission that this witness has
6 testified that the dry cooling alternative, if
7 used, and -- and he cites specifically the State
8 Water Resources Control Board Resolution 7558,
9 which discourages the use of fresh inland water
10 for power plant cooling --

11 HEARING OFFICER VALKOSKY: Right, you're
12 referring to Exhibit 85, the Errata?

13 MR. LEDFORD: Correct. On page 1.

14 HEARING OFFICER VALKOSKY: Right.

15 MR. LEDFORD: And that if in the event
16 that they use the dry cooling -- wet dry cooling
17 alternative, there would not be any significant
18 impact.

19 HEARING OFFICER VALKOSKY: Right. That
20 --

21 MR. LEDFORD: I'd just like to have that
22 comment in the record.

23 HEARING OFFICER VALKOSKY: Okay. And
24 that testimony. That is as it stands.

25 So you have -- you have no desire to

1 cross examine?

2 MR. LEDFORD: That's correct.

3 HEARING OFFICER VALKOSKY: All right,
4 fine. Comment noted.

5 Are there any other comments or
6 observations on the topic of Noise?

7 There are none.

8 Next topic is Public Health.

9 MR. THOMPSON: Thank you, Mr. Valkosky.

10 Again, Exhibit 102 contains the
11 Declaration of Mr. Howard Ballentine in the area
12 of Public Health. We would request that Public
13 Health be submitted to the record by Declaration.

14 HEARING OFFICER VALKOSKY: Are there
15 objections?

16 Hearing none, that will be admitted.

17 (Thereupon, Applicant's Declaration on
18 Public Health contained in Exhibit 102
19 was admitted into evidence.)

20 HEARING OFFICER VALKOSKY: Ms. Holmes.

21 MS. HOLMES: Thank you. Staff's
22 testimony on Public Health is found in Exhibit 82,
23 and in Errata that are found in Exhibit 85. The
24 witness qualifications and the witness Declaration
25 are found in Exhibit 104.

1 HEARING OFFICER VALKOSKY: Is there
2 objection to admission?

3 MR. LEDFORD: Can I have a moment?

4 I believe that in the Public Health
5 section it deals with issues to protect the public
6 from certain issues of safety, such as water
7 quality, and this particular case we're in a water
8 basin that's overdrafted. The continuing
9 overdrafting of this basin will significantly
10 degrade the water quality, and provide a
11 significant health issue for -- that is not
12 addressed in this report. I would like to cross
13 examine.

14 HEARING OFFICER VALKOSKY: Okay. And
15 again, Ms. Holmes, I take it you can let us know
16 of the witness's availability after lunch?

17 MS. HOLMES: I will.

18 HEARING OFFICER VALKOSKY: Thank you.

19 Public Health will remain open.

20 The next topic is Transmission Line
21 Safety and Nuisance. Mr. Thompson.

22 MR. THOMPSON: Thank you. In Exhibit
23 102 Applicant submitted the Declaration of Mr.
24 David Larsen in the area of Transmission Line
25 Safety and Nuisance. We would request that this

1 topic be submitted to the record by Declaration.

2 HEARING OFFICER VALKOSKY: Any
3 objection?

4 No objections. So ordered.
5 (Thereupon, Applicant's Declaration on
6 Transmission Line Safety and Nuisance
7 contained in Exhibit 102 was admitted
8 into evidence.)

9 HEARING OFFICER VALKOSKY: Ms. Holmes.

10 MS. HOLMES: Thank you. Staff's
11 testimony on Transmission Line Safety and Nuisance
12 is found in Exhibit 82, the witness qualifications
13 and witness Declaration that accompany that are
14 found in Exhibit 104.

15 HEARING OFFICER VALKOSKY: Is there
16 objection to admission?

17 No objection, that'll be admitted.
18 (Thereupon, Staff's Declaration on
19 Transmission Line Safety and Nuisance
20 contained in Exhibits 82 and 104 was
21 admitted into evidence.)

22 HEARING OFFICER VALKOSKY: Any other
23 comments on the topic area of Transmission Line
24 Safety and Nuisance?

25 There are none.

1 Next topic is Worker Safety and Fire
2 Protection. Mr. Thompson.

3 MR. THOMPSON: Thank you. Again,
4 Applicant in their Exhibit 102 submitted the
5 Declarations of Mr. John Mullen and Mr. Nelson in
6 the area of Worker Safety and Fire Protection. We
7 would ask that those -- that that area be
8 submitted to the record by Declaration.

9 HEARING OFFICER VALKOSKY: Objection?
10 There is none.
11 (Thereupon, Applicant's Declarations on
12 Worker Safety and Fire Protection
13 contained in Exhibit 102 were admitted
14 into evidence.)

15 HEARING OFFICER VALKOSKY: Ms. Holmes.

16 MS. HOLMES: Thank you. Staff's
17 testimony on Worker Safety and Fire Protection is
18 found in Exhibit 82, the witness's Declaration and
19 qualifications that accompany that are found in
20 Exhibit 104.

21 HEARING OFFICER VALKOSKY: Objection to
22 admission?

23 There's none.

24 ///

25 ///

1 (Thereupon, Staff's Declaration on
2 Worker Safety and Fire Protection
3 contained in Exhibits 82 and 104
4 was admitted into evidence.)

5 HEARING OFFICER VALKOSKY: Any further
6 comments on the topic area of Worker Safety and
7 Fire Protection?

8 There are none.

9 Okay. At this time I'd like to take a
10 recess until 11:15, please.

11 (Thereupon, a recess was taken.)

12 HEARING OFFICER VALKOSKY: All right.
13 The next topic on the agenda is Project
14 Description. Mr. Thompson.

15 MR. THOMPSON: Thank you, Mr. Valkosky.
16 Applicant would like to call Mr. Thomas
17 Barnett.

18 HEARING OFFICER VALKOSKY: Yes, we'll be
19 using the place to the left of Mr. Eller for the
20 witnesses.

21 MR. THOMPSON: If I could ask that Mr.
22 Barnett be sworn.

23 HEARING OFFICER VALKOSKY: Swear the
24 witness, please.

25 ///

1 (Thereupon, Thomas M. Barnett was, by
2 the Reporter, sworn to tell the truth
3 and nothing but the truth.)

4 TESTIMONY OF

5 THOMAS M. BARNETT

6 called as a witness on behalf of the Applicant,
7 having been first duly sworn, was examined and
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MR. THOMPSON:

11 Q Mr. Barnett, would you please state your
12 name for the record?

13 A Thomas M. Barnett.

14 Q And are you the same Thomas Barnett that
15 submitted prepared testimony in this proceeding
16 which is now labeled Exhibit 95?

17 A I am.

18 Q And if I were to ask you the questions
19 contained in that material today, would your
20 answers under oath be the same?

21 A They would.

22 Q Am I correct that there is a list of
23 exhibits contained in your testimony in Exhibit 95
24 that you are also sponsoring today?

25 A That is correct.

1 Q Mr. Barnett, in the area of Project
2 Description, would you give a brief description of
3 the project, from the view of the project owner,
4 to the Commission?

5 A Yes. The High Desert Power Project is
6 an approximately 700 megawatt gas-fired combined
7 cycle electric generating facility. It's located
8 on a 25 acre site at the former George Air Force
9 Base just outside of Victorville. The facility
10 configuration will be either three F Class
11 turbines or two G Class turbines. They will
12 generate electricity that will be sold to the
13 California Power Exchange through a 230 KV
14 transmission line interconnecting with the SCE
15 Victor Substation approximately seven miles south
16 of the site.

17 The gas for the facility will be
18 supplied by one or more of the following, a two-
19 mile gas pipeline interconnecting with the SoCal
20 Gas line to the south of the project site; and/or
21 a 32 mile gas pipeline running to the north to
22 interconnect the facility with the PGE and Kern
23 River Pipelines.

24 And with regard to water, the project is
25 very aware that it is sited in a desert

1 environment. We have very carefully designed a
2 water plan that will protect the area's resources.
3 We are -- we have developed currently the Water
4 Plan that has undergone a very thorough review and
5 comment process by all parties.

6 We are pleased that we have reached
7 agreement with the staff and CURE and the
8 California Department of Fish and Game on the
9 major components of that Water Plan, which are
10 that the project's major source of water will be
11 provided by water purchased from the State Water
12 Project, and for those periods when the State
13 Water Project water is not available we will be
14 pumping from the ground water that has been
15 previously banked by us to cover such periods of
16 time.

17 The -- with regard to the project's
18 overall schedule, we currently anticipate that we
19 will be commencing construction and going to
20 financing as soon as we receive all of the permits
21 necessary for the project. We will then be
22 commencing -- commencing operation after an
23 approximately 24-month construction period. At
24 this point we anticipate that the schedule will
25 enable us to be available to meet the summer peak

1 season in the year 2002.

2 I would be happy to answer any other
3 questions.

4 Q Thank you, Mr. Barnett. Does that
5 complete your testimony here today?

6 A It does.

7 MR. THOMPSON: Thank you. Mr. Barnett
8 is tendered for cross examination in the area of
9 Project Description.

10 HEARING OFFICER VALKOSKY: Ms. Holmes?

11 MS. HOLMES: No questions.

12 HEARING OFFICER VALKOSKY: Ms. Reynolds?

13 MS. REYNOLDS: No questions.

14 HEARING OFFICER VALKOSKY: Mr. Ledford?

15 MR. LEDFORD: Thank you.

16 CROSS EXAMINATION

17 BY MR. LEDFORD:

18 Q My first question is have the turbines
19 that you are proposing to build on this project
20 site ever been built in the past?

21 A To my knowledge they have.

22 Q It's not new technology that've never
23 been built before?

24 A No, it is not new technology.

25 Q All right. On the topic of water, are

1 you aware that the water basin that we're talking
2 about in this area has been overdrafted for a
3 period of approximately 40 years?

4 A I have no specific knowledge of that,
5 but I have heard that said before.

6 Q I see. You're aware that there is an
7 overdraft in the area?

8 A I personally have no specific knowledge
9 of that, but I have been told that.

10 Q You're aware that there was an
11 adjudication of water rights in the area?

12 A I am aware of that.

13 Q And are you aware that under the
14 adjudication that there was a requirement by the
15 court that the -- that the producers, which
16 include all municipal producers, replenish the
17 water in the basin?

18 A I have no specific knowledge that that's
19 the case.

20 Q Mr. Barnett, were you present at a
21 planning and workshop meeting on August 16th, 1999
22 at the Mojave Water Agency, in the town of Apple
23 Valley?

24 A Yes, I was.

25 Q And did you provide some verbal

1 description of the project to the Mojave Board of
2 Directors?

3 A I did, on the -- this is at the meeting
4 on the 16th?

5 Q Correct.

6 A I did make a public comment to the -- to
7 the Resources Committee of the Mojave Water
8 Agency.

9 Q And at that meeting did you advise the
10 Resource Committee that the maximum amount of
11 water that the High Desert Power Project would use
12 in any one year would be 4,000 acre/feet?

13 A I did.

14 Q And did you also advise them that you
15 anticipated that you would only use approximately
16 300 acre/feet of water during State Water Project
17 downtime?

18 A I indicated to them that we believed in
19 a typical year that the State Water Project would
20 only be down for a period of time that would
21 require us to use 300 acre/feet from our
22 previously banked water.

23 Q And as a part of the conditions that --
24 that are currently drafted, you are also required
25 to make up any decay in the water bank; is that

1 also correct?

2 A I'm not sure that's exactly how it's
3 stated in the -- in the draft permit conditions.

4 Q And what's your understanding of the
5 conditions?

6 A I believe that we are required to
7 replace any water that we use, and we're to --
8 we're required to take into account a model decay.
9 I don't know that we're required to replace any
10 decay.

11 Q Okay. Did you also tell the Mojave
12 Water Agency that you only intend to operate the
13 plant about 50 percent of the time?

14 A I don't believe that's an accurate
15 statement. I believe we indicated that -- that we
16 would not -- that the 4,000 acre/feet per year
17 represented the maximum annual use, assuming the
18 plant was operating at 100 percent capacity
19 factor, which it will never do on an annual basis.
20 So I indicated that the 4,000 acre/feet is a
21 figure that we would not realistically expect to
22 achieve, and that it may be substantially less.
23 And at some periods it could be 50 percent of
24 that, or even less.

25 Q You're aware that the State Project

1 water is -- that the Mojave Water Agency can
2 allocate -- is only allocate-able on an annual
3 basis?

4 A That is correct, at the moment.

5 Q Do you have any information that would
6 lead you to believe that -- that it can be done
7 for a longer period of time?

8 A No.

9 Q Are you aware of how long the State
10 Project water -- the State Project was down this
11 year for maintenance?

12 A No.

13 Q If I told you that it was for a period
14 of 90 days would you have any reason to disbelieve
15 me?

16 A I -- I would seek further verification
17 of it, but it's -- that's something I have no
18 knowledge of.

19 Q Are you aware that the Mojave Water
20 Agency Board of Directors is -- is studying the
21 issue of the consumptive use in the two-for-one
22 replacement of water to cure the overdraft?

23 A I am aware of that.

24 Q And did you make a presentation to the
25 Mojave Water Agency Board of Directors on I

1 believe it was Tuesday evening of this week?

2 A I did not make a presentation. I made a
3 two or three minute comment during their -- their
4 request for public comments.

5 Q And did you ask that the Mojave Water
6 Agency not take any action on this item for at
7 least 30 days, until a new director could be
8 seated?

9 A I did.

10 MR. LEDFORD: I have no further comments
11 -- no further questions.

12 Oh, I do -- I would like to -- we had
13 identified Exhibit -- this Mojave Water Agency, I
14 believe it was 118. Can I approach the witness --

15 HEARING OFFICER VALKOSKY: You may.

16 MR. THOMPSON: -- to have him identify
17 this?

18 BY MR. THOMPSON:

19 Q These minutes were approved at the
20 Monday workshop of the planning and resources
21 committee this week, and your comments are listed
22 on page 3. Your testimony generally reflected the
23 -- what is said here, but it might be slightly
24 different.

25 Could you review the -- your comments on

1 page 3 and see if it's consistent?

2 A I have reviewed it.

3 Q And do --

4 A Do you have a specific question?

5 MR. THOMPSON: The specific question is
6 I'd like to enter this -- this document into
7 evidence at this time.

8 HEARING OFFICER VALKOSKY: Are the --
9 Mr. Barnett, are the comments consistent?

10 THE WITNESS: They were consistent.

11 HEARING OFFICER VALKOSKY: They're
12 consistent. Okay. So, Mr. Ledford, you're moving
13 118 into evidence?

14 MR. LEDFORD: Correct.

15 HEARING OFFICER VALKOSKY: Is there
16 objection?

17 MR. THOMPSON: I would only comment
18 that, number one, we've just received this, and
19 this is not prepared by anybody sitting in this
20 room today. And, third, the only area that has
21 been under review are the comments made by Mr.
22 Barnett.

23 I would have no objection to this being
24 admitted for the veracity of the comments made by
25 Mr. Barnett that are reflected in the minutes. I

1 would have some hesitancy about the truth of other
2 matters stated within this document.

3 HEARING OFFICER VALKOSKY: As I
4 understood the tenor, and Mr. Ledford, correct me
5 if I'm wrong, you're specifically interested only
6 in I believe it's page 3, the accuracy of the
7 comments made --

8 MR. THOMPSON: As it relates --

9 HEARING OFFICER VALKOSKY: -- by Mr.
10 Barnett?

11 MR. THOMPSON: As it relates to Mr.
12 Barnett. However, again, the reasons for having
13 Mr. John Norman testify in this case, and also Mr.
14 Caouette, is the issue of the 100 percent
15 consumptive use and the two-to-one replacement.
16 And these issues are -- are not settled before the
17 Mojave Water Agency, and so at such time as Mr.
18 Caouette and Mr. Norman come before this
19 Commission to testify then I would like them to
20 validate the other pieces of this document.

21 HEARING OFFICER VALKOSKY: Okay. At
22 this time --

23 MR. THOMPSON: And he did testify as to
24 his knowledge that there was a policy meeting
25 underway there, and the -- it's interlaced with

1 that.

2 HEARING OFFICER VALKOSKY: Okay. At
3 this time we'll, pending further objection,
4 receive Exhibit 118, specifically Page 3,
5 regarding the accuracy of Mr. Barnett's comments,
6 and you can introduce other portions in the
7 future, as appropriate.

8 Is there objection to that?

9 MR. THOMPSON: None from Applicant.

10 HEARING OFFICER VALKOSKY: Any other
11 party?

12 No objection. Thank you.

13 (Thereupon, Page 3 of Exhibit 118 was
14 admitted into evidence.)

15 HEARING OFFICER VALKOSKY: Anything
16 further, Mr. Ledford?

17 MR. LEDFORD: Nothing further.

18 HEARING OFFICER VALKOSKY: Before we get
19 to redirect, Mr. Barnett, when will the Applicant
20 make the choice which configuration it will build?

21 THE WITNESS: We are actively reviewing
22 that right now, and we anticipate that we will
23 make a determination on the final configuration,
24 as well as other areas that we have alternatives
25 listed for, within the coming months. All I can

1 say at this point is it will be before we go to
2 financial closing, and before we break ground.
3 But I can't be any more specific than that at this
4 point in time.

5 HEARING OFFICER VALKOSKY: But since
6 you'd be using, as I understand it at least,
7 different turbines, isn't there a fairly extensive
8 lead time to obtain turbines?

9 THE WITNESS: There is an extensive lead
10 time to obtain turbines in today's market, and our
11 parent company has been in negotiations with both
12 of the major turbine equipment suppliers who could
13 provide equipment to either of these alternatives.
14 And we believe that we have obtained a place in
15 the queue, if you will, that would enable us to go
16 either way.

17 And in fact, as you can I'm sure
18 appreciate, the ability to go either way is a very
19 important aspect of our negotiations in that
20 process.

21 HEARING OFFICER VALKOSKY: What general
22 criteria will you use in determining which
23 configuration to construct?

24 THE WITNESS: I think it will be a
25 combination of economic, environmental, and

1 performance criteria.

2 HEARING OFFICER VALKOSKY: Can you be
3 just a little more specific on that?

4 THE WITNESS: Well, clearly there are --
5 there are cost issues. The -- the first cost of
6 these issues, as well -- of these various
7 equipment, as well as their operating costs. And
8 there are significant differences in both, in both
9 capital costs and operating costs associated with
10 these two configurations.

11 In addition, they have differing
12 environmental characteristics, both of which have
13 been taken into account in the -- the analyses
14 that's before this body and in the draft permit
15 conditions. But, and then finally, they have
16 different performance characteristics. They are
17 able to produce differing amounts of electricity.

18 And all of those are the -- are the key
19 issues that we're weighing in determining which
20 configuration is most appropriate.

21 HEARING OFFICER VALKOSKY: You mentioned
22 environmental characteristics. Is it correct to
23 assume that those are principally related to -- to
24 water usage and air emissions?

25 THE WITNESS: Yes.

1 HEARING OFFICER VALKOSKY: Thank you.

2 Any redirect, Mr. Thompson?

3 REDIRECT EXAMINATION

4 BY MR. THOMPSON:

5 Q One question, Mr. Barnett. Am I correct
6 that the Board of Directors at the meeting that
7 you were discussing with Mr. Ledford did not take
8 any action?

9 A It did not.

10 MR. THOMPSON: Thank you. I have
11 nothing else.

12 HEARING OFFICER VALKOSKY: Anything else
13 for any other party or anyone here present, for
14 Mr. Barnett?

15 Thank you, Mr. Barnett. You're excused.

16 MR. THOMPSON: Applicant would like to
17 move the admission into the record of the
18 following exhibits sponsored by Mr. Barnett, and
19 his prepared testimony, Exhibits 7, 38, 44, 50,
20 and 72.

21 HEARING OFFICER VALKOSKY: Is there
22 objection?

23 There is no objection.

24 (Thereupon, Exhibits 8, 30, 44, 50,
25 and 72 were admitted into evidence.)

1 MR. THOMPSON: I would point out that
2 the other material in parts of Exhibits that Mr.
3 Barnett and others are testifying to are
4 responsive to data requests for parts of the AFC,
5 and I would move the admission of that at the
6 conclusion of the hearing.

7 HEARING OFFICER VALKOSKY: That's
8 entirely appropriate.

9 Okay. Ms. Holmes.

10 MS. HOLMES: Thank you. Staff's witness
11 on Project Description is Richard Buell.

12 (Thereupon, Richard Buell was, by the
13 Reporter, sworn to tell the truth and
14 nothing but the truth.)

15 MS. HOLMES: Thank you.

16 TESTIMONY OF

17 RICHARD BUELL

18 called as a witness on behalf of the Staff, having
19 been first duly sworn, was examined and testified
20 as follows:

21 DIRECT EXAMINATION

22 BY MS. HOLMES:

23 Q Mr. Buell, do you have in front of you a
24 document that has been labeled as Exhibit 82?

25 A Yes, I do.

1 Q And a document that has been labeled as
2 Exhibit 83?

3 A Yes.

4 Q There are discussions in those two
5 documents that are entitled Project Description.
6 Did you prepare those sections of the documents?

7 A Yes, I did.

8 Q Did you also include in Exhibit 82 a
9 statement of your qualifications?

10 A Yes, I did.

11 Q Are the facts in your testimony true and
12 correct to the best of your knowledge?

13 A Yes, they are.

14 Q Do the opinions that are presented in
15 your testimony represent your best professional
16 judgment?

17 A Yes.

18 Q Do you have any changes or corrections
19 to your testimony?

20 A Yes. I'd like to provide some
21 clarification. It has been some time since staff
22 published the Staff Assessment, and a number of
23 things have changed, minor things, I think.

24 For example, the Southern California
25 International Airport has changed its name to the

1 Southern California Logistics Airport. That's not
2 only referenced in the staff's project
3 description, but in other sections of the SA, and
4 we'd like to have the Committee note the name
5 change.

6 Also, on page 9, regarding water supply
7 for the project, I'd like to add some
8 clarification. The Applicant has refined its
9 proposal in terms of water supply for the project.
10 I'd like to clarify that all the water that the
11 project will use for evaporative cooling will be
12 supplied from the State Water Project water
13 system. That the Applicant has agreed to pre-bank
14 water from the State Water Project water project
15 in the ground, in order to provide a back-up
16 supply of water when water is not available from
17 the State Water Project.

18 Also, on page 14 -- 14 of my testimony,
19 regarding the natural gas pipeline, the last
20 sentence in that section in the second paragraph
21 identifies that the pipeline will cross BLM lands
22 and coordination with BLM and U.S. Fish and
23 Wildlife Services review will be required. I'd
24 like to identify that such coordination has taken
25 place, that it is my understanding that the U.S.

1 Fish and Wildlife Service is in the process of
2 preparing an EIS that will be available in
3 November of this year, and that that document
4 should be based in part on the information
5 provided in staff's assessment, and also
6 information contained in the Application for
7 Certification provided by the Applicant.

8 That the EIS, or Environmental Impact
9 Statement will also be based in part, the
10 mitigation measures based upon staff's proposed
11 conditions of certification.

12 Q Does that conclude your clarifications?

13 A Yes, it does.

14 MS. HOLMES: With those clarifications,
15 Mr. Buell is available for cross examination.

16 HEARING OFFICER VALKOSKY: Mr. Thompson.

17 MR. THOMPSON: Thank you. We have no
18 questions.

19 HEARING OFFICER VALKOSKY: Ms. Reynolds?

20 MS. REYNOLDS: No questions.

21 HEARING OFFICER VALKOSKY: Mr. Ledford?

22 MR. LEDFORD: Thank you.

23 CROSS EXAMINATION

24 BY MR. LEDFORD:

25 Q Mr. Buell, referring you to page 9 of

1 your testimony. It indicates that the project
2 would use 3597 acre/feet of water per year. And
3 the -- I believe the Applicant has testified that
4 he would use 4,000 acre/feet a year of 100 percent
5 consumptive use water; is that correct?

6 A Yes, it is.

7 Q Would it be appropriate to change your
8 testimony to reflect that as being the accurate
9 figure?

10 A The numbers that are presented in my
11 testimony for either configuration were those that
12 were obtained from the Application for
13 Certification. When the Applicant has identified
14 a consumptive use of 4,000 acre/feet at 100
15 percent operation, that is what I would interpret
16 as a maximum, or a rounding off of the numbers
17 that were contained in the AFC.

18 I see no reason to modify my testimony,
19 which is more precise, if you will.

20 Q You -- did you -- you're the Project
21 Manager, as I -- what's your title?

22 A I am the staff's Siting Project Manager
23 for the High Desert Power Project.

24 Q So you have the overall responsibility
25 for this report and assembling the various staff

1 people that do the different tasks that would come
2 under this report. Would that be a correct
3 statement?

4 A Yes.

5 Q And as the Project Manager, did you ever
6 review the underlying Environmental Impact Report
7 that was prepared for VITA and the Base Re-use?

8 A I'm aware of the report. I do not -- I
9 would not characterize it that I've read it in
10 depth, or I'm familiar with it.

11 Q You have physically seen it?

12 A I have physically seen it.

13 Q Are you aware that there was litigation
14 on that environmental document?

15 A Not to my knowledge. I have no
16 knowledge of any litigation.

17 MR. LEDFORD: I don't have that
18 document, but I would assume that staff has the
19 document. It is a public record, and I would like
20 to know if it's possible that staff could provide
21 the document so that it could be entered into
22 evidence.

23 HEARING OFFICER VALKOSKY: Do you have
24 the document?

25 THE WITNESS: I believe I have a copy in

1 my office, and I could provide that if it is
2 indeed in my office.

3 BY MR. LEDFORD:

4 Q Well, it is referred to in other
5 sections. You don't refer to it specifically in
6 your part of this document, but other members of
7 your staff have referred to that document.

8 A I -- and it would be a matter of
9 tracking it down. I'm not sure, I believe it is
10 in my office. It may be that one of the staff has
11 it. That can take time to obtain, but certainly
12 we can do that.

13 MR. LEDFORD: In an effort to save time
14 would it be appropriate that we ask that that
15 document be provided by staff at the October 7th
16 hearing, and that we could admit it in evidence at
17 that time?

18 HEARING OFFICER VALKOSKY: Can you do
19 that?

20 THE WITNESS: I believe so.

21 MR. LEDFORD: Would that help?

22 PRESIDING MEMBER LAURIE: Well, let me
23 ask Mr. Valkosky a question. Are you talking
24 about the EIR?

25 MR. LEDFORD: I'm talking about the

1 underlying EIR for the base re-use, the VITA base
2 re-use, which would be the fundamental
3 environmental document that would've -- would've
4 been and should've been reviewed and made a part
5 of the underpinning of this project.

6 PRESIDING MEMBER LAURIE: Mr. Valkosky,
7 how many copies do you need of the proposed
8 exhibit?

9 HEARING OFFICER VALKOSKY: Ideally,
10 everyone on the proof of service gets one.

11 PRESIDING MEMBER LAURIE: Well, the EIR
12 is --

13 HEARING VALKOSKY: As well as the
14 docket.

15 PRESIDING MEMBER LAURIE: -- probably
16 what, a 500 page document?

17 MS. HOLMES: It's quite an extensive
18 document.

19 MR. LEDFORD: It's probably longer.

20 PRESIDING MEMBER LAURIE: Are there --
21 are there specific sections that you are
22 interested in?

23 MR. LEDFORD: Well, the issues within
24 that document are -- are cumulative impacts. And
25 there's several -- several areas that relate to

1 cumulative impacts. Water, of course, is my
2 focus. The litigation over the lawsuit was
3 focused on water. There was a settlement
4 agreement. I -- I will be introducing those
5 documents later, but --

6 HEARING OFFICER VALKOSKY: Right. Can
7 you, since staff has indicated that they believe
8 they have a copy of it and will provide it, can
9 you specifically identify those sections or
10 pages, rather than --

11 MR. LEDFORD: Yes, I --

12 HEARING OFFICER VALKOSKY: --
13 introducing an additional burden of having this
14 massive mailing list --

15 MR. LEDFORD: Yes, I can. I -- I can do
16 it to this extent. I have the draft EIR, which is
17 not the final certified EIR, but I believe that
18 the staff has the final certified EIR.

19 HEARING OFFICER VALKOSKY: Staff --
20 staff could make the final available to you for
21 inspection, you can indicate which --

22 MR. LEDFORD: I would --

23 HEARING OFFICER VALKOSKY: -- portions
24 of it you're interested in.

25 MR. LEDFORD: I would be happy to do

1 that.

2 HEARING OFFICER VALKOSKY: Thank you.

3 BY MR. LEDFORD:

4 Q During the past nine months or so since
5 I've become an Intervenor in this project, I have
6 submitted a number of different documents relating
7 specifically to the issues of 100 percent
8 consumptive use, and two-to-one replacement, other
9 -- other issues similar to that. And have you
10 received those -- those position papers from me?

11 A Yes.

12 Q So that the record's clear, the position
13 papers that I would be referring to is anything
14 that has been docketed relative to water in this
15 case. I'm not -- I'm not trying to suggest
16 there's something else other than what's in the
17 record.

18 A I've received a number of documents from
19 you. If you could be more specific about which
20 ones you're relating to, and then I could be more
21 specific in my answer.

22 Q Okay. As early as February of this year
23 I submitted a position paper, and it is docketed
24 in this case, and it outlined the -- my concerns,
25 which pretty much have not changed over the life

1 of the project. Did you receive that position
2 paper?

3 A If it was docketed, yes, I have received
4 it.

5 Q And is there any place in -- in either
6 your testimony in here, in the Errata that has
7 been filed by you or any members of your staff,
8 that addressed those concerns that are in that
9 position paper?

10 A I don't know the answer to that
11 question. My testimony does not -- not related to
12 the water issue that I think you're concerned
13 about. I'm not familiar enough with the water
14 testimony to say yes or not, no, whether or not it
15 addresses the policies that you've identified.

16 Q You have participated in each of the
17 workshops on water that we have conducted; is that
18 correct?

19 A That's correct.

20 Q And with the exception of one hearing,
21 you chaired it. Is that correct? Chair those --
22 maybe not.

23 A I -- when I am available I do conduct
24 the staff workshops for this project, yes.

25 Q And at each of those workshops were the

1 issues that I have raised in the position papers
2 also addressed?

3 A We've talked about a number of issues
4 raised by yourself during many workshops,
5 including consumptive use and two-to-one ratios,
6 and other issues that you've identified.

7 Q We've also addressed the issue of
8 whether or not that the project, that the use of
9 State Project water complies with the California
10 Constitution Article 10, Section 2, specifically
11 relative to reasonable and beneficial use of
12 water. Is that also correct?

13 MS. HOLMES: Mr. Valkosky, at this time
14 I have -- I guess I've got almost an objection.
15 It seems to me that these questions are going well
16 beyond the scope of Mr. Buell's testimony on
17 Project Description. It seems as though the
18 witness is asking about the -- excuse me, that Mr.
19 Ledford is asking about the conduct of hearings,
20 and I don't understand that -- that to be within
21 the scope of Mr. Buell's testimony on Project
22 Description.

23 I think that there are a number of
24 questions that are being raised about what staff
25 may have considered in its water testimony, and

1 those would be within the scope of Mr. O'Hagan and
2 Ms. Bonds' testimony.

3 So I'm going to object to more questions
4 along these lines to Mr. Buell.

5 HEARING OFFICER VALKOSKY: Mr. Ledford,
6 I share Ms. Holmes' concern that I'm not sure Mr.
7 Buell is the right witness to answer these
8 questions. They do seem specific as to water.

9 Mr. Buell is testifying on Project
10 Description. Now, granted, that includes water
11 usage. And I'm -- I'm willing to give you some
12 leeway, but I'd like you to focus in on what Mr.
13 Buell can answer.

14 MR. LEDFORD: Okay.

15 HEARING OFFICER VALKOSKY: Within the
16 scope of his testimony that he's sponsoring.

17 MR. LEDFORD: Mr. Buell has testified
18 that he's Project Manager for the whole project.
19 And that the staff that prepares this whole
20 document works for him, or under him, or at his
21 direction. And my concern, and I've expressed
22 this concern in the past, is that -- is that this
23 process has a lacking of -- of some elements of
24 CEQA. Specifically, responding to the public's
25 comments.

1 And I don't want to abuse him, because
2 he's -- I think he does a great job and he's --
3 and what you folks do here at the Energy
4 Commission to put together these projects is a
5 vast chore. But I think in this particular case
6 this issue of water is a very significant issue.
7 And it's an issue that needed to be addressed much
8 more comprehensively in the sense of the LORS part
9 of it, the Laws, Ordinance, Rules and Standards.
10 The issue is relative to the Mojave Water Agency
11 Act, the issue is relative to State Department of
12 Water Resources Resolution 7558, the issue is of
13 lawsuits and lawsuit settlements that are --

14 HEARING OFFICER VALKOSKY: Right. And
15 --

16 MR. LEDFORD: -- that are fundamental to
17 this project. So --

18 HEARING OFFICER VALKOSKY: And if I may,
19 it seems to me that everything you're saying, you
20 know, deals specifically with the water issues.

21 MR. LEDFORD: And that's exactly right.
22 But he hasn't been identified as a witness in the
23 water portion of the case. Now, I'd be more than
24 happy to -- and I'm sure that he's going to be
25 down there, and I'd be more than happy to defer

1 these questions that relate specifically to water
2 and those issues, because the record might be more
3 clear as we begin to develop --

4 HEARING OFFICER VALKOSKY: I -- I
5 certainly think that's appropriate. I think Mr.
6 Buell is not identified as a water witness,
7 because he possesses no particular expertise in
8 the water area.

9 MR. LEDFORD: But -- but he does possess
10 supervisory capability and --

11 HEARING OFFICER VALKOSKY: Right. And
12 --

13 MR. LEDFORD: -- issues relative to
14 response to comments, and those things that he
15 could respond to.

16 HEARING OFFICER VALKOSKY: And he does,
17 and check me if I'm wrong, Mr. Buell, you will be
18 available at the water hearings; correct?

19 THE WITNESS: I plan to be there, yes.

20 HEARING OFFICER VALKOSKY: Yes. So he
21 will be available then. And I think, you know,
22 and I -- I think instinctively you are right.
23 When we deal with the water issue, because
24 apparently it's going to be a very broad issue in
25 terms of preserving the record, you know, my

1 personal preference is that it be consolidated in
2 a -- in a specific --

3 MR. LEDFORD: I'd be happy to do that.

4 HEARING OFFICER VALKOSKY: --
5 transcript. Okay.

6 MS. HOLMES: Mr. Valkosky, I'd like to
7 raise one other concern, and that's the
8 implication of Mr. Ledford that Mr. Buell is
9 subject to cross examination on process at
10 workshops. I don't believe that's an appropriate
11 subject for cross examination on sworn testimony,
12 and I would have a problem with those kinds of
13 questions being allowed.

14 HEARING OFFICER VALKOSKY: Well, I think
15 that's good, and I think it's noted for the
16 future, and we'll just have to see what questions
17 come out at the future hearing on that.

18 Personally, I see nothing wrong with Mr.
19 Buell giving a narrative of what has typically
20 happened, and that's -- that's fine. That's
21 explanatory.

22 So with that, Mr. Ledford, do you have
23 anything more for Mr. Buell?

24 MR. LEDFORD: I have nothing further.

25 HEARING OFFICER VALKOSKY: Okay. Does

1 any other party have anything more for Mr. Buell?

2 Okay.

3 MR. LEDFORD: I -- with the specific
4 reservation that he'll be called as a witness in
5 the water hearing.

6 HEARING OFFICER VALKOSKY: And we have
7 Mr. Buell's indication that he will be there for
8 the water hearings.

9 MR. LEDFORD: Thank you.

10 HEARING OFFICER VALKOSKY: I'm sure it's
11 an event that he wouldn't miss.

12 (Laughter.)

13 HEARING OFFICER VALKOSKY: Okay. One
14 question of clarification, Mr. Buell. On page 5
15 in your testimony, you indicate that the project
16 may be modified in the future to provide steam,
17 hot water, chilled water. At the end of your
18 first paragraph, nature and purpose of the
19 project.

20 Is it your understanding that any such
21 modification would return to the Commission in the
22 form of an amendment, or other appropriate action,
23 or not?

24 THE WITNESS: Yes. The Applicant would
25 have to apply for an amendment to the

1 certification to make these changes.

2 HEARING OFFICER VALKOSKY: Okay, fine.
3 One other point, and since I have the feeling that
4 we will be having briefs on this topic in general,
5 I'd like the attorneys to be on advance notice
6 that one of the questions they should address in
7 the briefs is the propriety of permitting a
8 multiple configuration under the Warren-Alquist
9 Act and the California Environmental Quality Act.

10 MS. HOLMES, do you have any redirect for
11 Mr. Buell?

12 MS. HOLMES: I do not.

13 HEARING OFFICER VALKOSKY: Any other
14 questions for Mr. Buell, or questions on the topic
15 of Project Description?

16 Thank you.

17 MS. HOLMES: Mr. Valkosky, do you --
18 would it be acceptable to move the Project
19 Description portion of the testimony into the
20 record at this point?

21 HEARING OFFICER VALKOSKY: Yes, excuse
22 me. Yes.

23 Okay. I take it, Ms. Holmes, you're
24 moving that portion of Exhibit 82 and --

25 MS. HOLMES: Exhibit 83.

1 HEARING OFFICER VALKOSKY: Exhibit 83,
2 excuse me.

3 MS. HOLMES: Yes.

4 HEARING OFFICER VALKOSKY: Into
5 evidence. Is there objection?

6 MR. LEDFORD: I object based on the
7 amount of water supply is not consistent with
8 previous testimony.

9 HEARING OFFICER VALKOSKY: Okay. We've
10 noted your objection. I'll overrule the
11 objection. I think the witness has clarified it
12 appropriately on the stand. It will be admitted.

13 (Thereupon, Exhibit 83 was
14 admitted into evidence.)

15 HEARING OFFICER VALKOSKY: All right.
16 The next topic is Facility Design. Mr. Thompson.

17 MR. THOMPSON: Thank you, Mr. Valkosky.

18 Applicant would like to please call Mr.
19 Zoran Rausavljevich.

20 Mr. Rausavljevich has not been sworn.

21 (Thereupon, Zoran Rausavljevich was,
22 by the Reporter, sworn to tell the truth
23 and nothing but the truth.)

24 ///

25 ///

1 TESTIMONY OF

2 ZORAN RAUSAVLJEVICH

3 called as a witness on behalf of Applicant, being
4 first duly sworn, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. THOMPSON:

8 Q Would you please state your name for the
9 record?

10 A My name is Zoran Rausavljevich.

11 Q And your testimony is contained in what
12 is now labeled Exhibit 95 to this proceeding?

13 A Correct.

14 Q I would like to present Mr.
15 Rausavljevich for his area of Project Description
16 and Facility Design, the two blend together, and I
17 thought it would be easier for that purpose.

18 Mr. Rausavljevich, the areas identified
19 in your testimony with regard to Project
20 Description and Facility Design, you adopt those
21 are your own?

22 A Correct.

23 Q And you are sponsoring the exhibits
24 contained in your testimony in those areas?

25 A Yes.

1 Q Do you have any corrections or additions
2 or deletions to make to that material?

3 A No, I don't.

4 Q Would you please briefly summarize from
5 an engineering standpoint the project description
6 and design for the Committee?

7 A High Desert Power Project is conceptual
8 in two configurations. One configuration is three
9 trains of F Class machines, and the second
10 configuration features two trains, based on G
11 Class machines.

12 Each train has heat recovery, steam
13 generator, and dedicated cooling tower for both
14 configurations. Our -- in the original design of
15 the plant also included single cycle
16 configuration, which did not feature cooling tower
17 or -- this consideration.

18 The project was designed using the
19 concept of maximum efficiency and reliability that
20 could provide our client with a plant that will
21 give them the optimum design capital cost and they
22 could successfully compete in the merchant market.
23 Category market.

24 The reasons why we used cooling water as
25 a cooling medium, because it clearly defined most

1 efficient concepts in the plant design. So that's
2 -- the construction of this project is anticipated
3 anywhere about 24 months. That could vary
4 depending whether they go with the three F
5 configuration or two F. Two F uses bigger
6 machines, but less pieces of equipment to erect,
7 so it might take a little bit less time.

8 As far the plant operability, both
9 configurations are designed, which -- which will
10 allow to operate the plant very efficiently. In
11 other words, you could, in three F configuration,
12 shut down one train and still operate at 100
13 percent with less efficiency the two other trains.
14 That also provides the ability to providing the --
15 the plant, which features gas turbine dedicating
16 -- dedicated steam turbine including cooling
17 tower, it makes it independent from other two
18 trains. That is somewhat added to cost of the
19 project, but it does provide more operating
20 flexibility.

21 In terms of the project site, I -- I
22 visited that site at the beginning of the project.
23 It appears to be a good site, slightly sloped on
24 the north with -- which would require minimum work
25 for construction in terms of cut and fill. And it

1 -- it appears to be ideal for location of a plant
2 of this type. It was -- it's located in the
3 former Air Force base, and it appeared to have a
4 good access for all the utilities, as well as
5 transmission lines. So in Fluor Daniel opinion,
6 it was a good location.

7 Also, our investigation, preliminary
8 investigation regarding soil indicates that it
9 could use spread footing and there will be no
10 problems with that particular design.

11 I can talk more about it, but I would
12 prefer questions because I don't like to be
13 repetitive. A lot of that's written, and I'm
14 basically essentially restating what we said in
15 the document.

16 That would essentially summarize our
17 approach and philosophy regarding design,
18 efficiency, reliability, and why we selected
19 certain options specifically for the cooling --
20 cooling of the heat rejection using cooling water.

21 Q Thank you, Mr. Rausavljevich. I believe
22 you may have misspoken yourself. When you're
23 looking at the two possible configurations of the
24 plant is it three F type turbines versus two G
25 type turbines?

1 A That's correct.

2 Q And finally, could you give us an
3 estimate of the number of power plants or
4 megawatts that Fluor Daniel has constructed?

5 A Oh, Fluor Daniel is now called Duke
6 Fluor Daniel. Jointly we have more than 20,000
7 megawatts that we have built in the last 20 years.
8 And we have currently about 5,000 megawatts under
9 construction.

10 Q All right. Do you have anything else to
11 add?

12 A No, I don't.

13 MR. THOMPSON: Thank you very much. Mr.
14 Rausavljevich is tendered for cross examination in
15 the areas of Project Description and Facility
16 Design.

17 HEARING OFFICER VALKOSKY: Ms. Holmes?

18 MS. HOLMES: No questions.

19 HEARING OFFICER VALKOSKY: Ms. Reynolds?

20 MS. REYNOLDS: No questions.

21 HEARING OFFICER VALKOSKY: Mr. Ledford.

22 MR. LEDFORD: Thank you.

23 CROSS EXAMINATION

24 BY MR. LEDFORD:

25 Q You testified that cooling towers was

1 the most reliable means of heat rejection. Is dry
2 cooling an alternative for this project?

3 A I didn't testify that's most reliable.
4 I said most efficient.

5 Q Okay. Most efficient.

6 A That's correct.

7 Q Is dry cooling a viable alternative?

8 A No, it is not.

9 Q And can you tell me why not?

10 A Because for me, viable means
11 economically justified efficiency, land use and
12 all the other things. In all of these cases, the
13 dry cooling is not viable option.

14 Q Well, let's take them one at a time. In
15 the -- I think you started with economics. Let's
16 start with economics. Why not?

17 A You want me to elaborate on --

18 Q Yes, I would.

19 A Okay. Let me preface that we did not do
20 a quantitative analysis of dry cooling. We were
21 instructed to perform preliminary design based on
22 wet cooling. So I'm willing to provide you with
23 my professional personal experience with dry
24 cooling versus the, you know, wet cooling on
25 various jobs, and how these, you know, dry cooling

1 impacts economics. But I don't have any specific
2 numbers regarding High Desert Power Project to
3 talk about.

4 Q You never did any specific study on the
5 High Desert Power Project to determine whether it
6 was economically feasible or not?

7 A We did not do a economic study for dry
8 cooling.

9 Q Are you familiar with the Mammoth Power
10 Project?

11 A Vaguely. I heard of that.

12 Q Do you know they used dry cooling in
13 that project?

14 A I --

15 Q Are you familiar with the Sutter Project
16 that's just been recently approved by this
17 Commission?

18 A Yeah, I read something about that site,
19 yeah.

20 Q And are you aware that they're using dry
21 cooling in that project?

22 A Yes, I'm aware.

23 Q Are you familiar with Otai Mesa?

24 A No, I'm not.

25 Q Okay. Are you familiar with a power

1 project that is located in Boulder City, Nevada,
2 that is currently coming online?

3 A I'm not -- well, I've heard about that
4 project, but I'm fully up on that.

5 Q And are you aware they're using dry
6 cooling on that project?

7 A I heard about it.

8 Q Okay. So there are other projects that
9 are using dry cooling?

10 A No question.

11 Q All right. You talked about land use.

12 A Right.

13 Q What issues of land use would be
14 significant?

15 A Well, dry cooling generally requires
16 much more acreage to install the equipment. In
17 other words, the cooling tower, when you compare
18 it to the size of the air cooler that will do the
19 same job, would be the -- much smaller. The size,
20 it will take less land.

21 Q And would you know if a 25 acre site
22 would accommodate the full power plant and dry
23 cooling towers?

24 A I don't believe so. We haven't done the
25 -- the study for the High Desert, but I believe

1 they will have a difficult time, because they will
2 have to install three separate dry cooling
3 systems. And they all have to be separate,
4 because you have interference of the air. You
5 have to provide enough room for air to access the
6 heat transfer surface.

7 Q So it's possible that you would need
8 more acreage. Are you -- are you aware of whether
9 or not there is additional acreage available
10 around that site that they could acquire?

11 A (No audible response.)

12 Q I see. Let's talk about cooling towers
13 for a second. Do you now where the cooling towers
14 are located in relation to the runways at George
15 Air Force Base?

16 A The towers are located on the west side
17 of -- northwest side of the plant, I think.

18 Q And are they directly in line with the
19 crosswind runway?

20 A Yeah, they are oriented in the
21 prevailing wind direction. That's what you call
22 -- wind blowing this way, a runway, this is across
23 -- yes, they are.

24 Q And if a plane was landing would it land
25 into the wind?

1 A Well, I don't have expertise --

2 Q All right.

3 A -- on that. I pass.

4 Q That's fine. Can you tell me about
5 vapor plumes, please? From the cooling towers.

6 A What do you want to know about vapor
7 plumes?

8 MR. THOMPSON: Could I ask that you be
9 more specific?

10 MR. LEDFORD: Yeah, certainly.

11 BY MR. LEDFORD:

12 Q Will these cooling towers produce vapor
13 plumes?

14 A We have a picture right here on the
15 wall. Is that what you're talking about?

16 Q Yes.

17 A Okay. That's the -- the plume that
18 occasionally appears from cooling tower during the
19 very cold temperature.

20 Q And how cold is very cold?

21 A It has to be below such and such
22 saturation.

23 Q Well, what -- can you define such and
24 such for me, please?

25 A Well, you have to have atmospheric

1 conditions such that the steam, or the water vapor
2 that leaves the fans, when it hits the ambience
3 out here, condenses. And it becomes a liquid
4 form, then you can see it, there is a condensed
5 steam. And that's what you see in this picture.

6 Q Okay. Well, can you put that in
7 layman's language? Can you tell me at what -- at
8 what degree, at what temperature, is there more
9 than -- is there more than one thing?

10 A There is no specific temperature,
11 because the -- see, the -- to condense the steam
12 in atmosphere you have to consider how much that
13 is in the surrounding air. You call that --
14 humidity. It's not that simple answer, but you
15 have to understand that this temperature could
16 change. You can still see the plume, but you
17 might not see.

18 Q But the plume is there whether you see
19 it or not. Is that correct? Is that what you're
20 saying?

21 A The -- well, I could see a plume that I
22 see, whatever I see.

23 Q Right.

24 A I don't consider it as the plume.

25 Q Have you done any studies as to how many

1 days per year that the plume would be there?

2 A We have done a study based on -- using
3 EPRI software. And I think our study is in one of
4 the appendices.

5 Q Can you --

6 A Appendix -- you might correct me, but
7 there is a -- called Cooling Tower Impact
8 Analysis. I don't know exactly what the appendix
9 is. But this was done, yes.

10 Q All right.

11 A Let me just check it. It's Appendix I.
12 And it's titled "Cooling Tower Impacts Analysis."

13 Q I'm sorry, I don't have -- is that one
14 of the exhibits that's being entered into
15 evidence?

16 MR. THOMPSON: No, that's Exhibit I to
17 the Application for Certification. It will be
18 entered into evidence, I trust.

19 MR. LEDFORD: At some point. I -- I've
20 never seen that. So --

21 MR. THOMPSON: The application? The
22 AFC?

23 MR. LEDFORD: Right. Sorry.

24 MR. THOMPSON: Okay. It's a fairly
25 central document to this proceeding.

1 MR. LEDFORD: I would imagine it is, but
2 I haven't seen it.

3 BY MR. LEDFORD:

4 Q My questions still gravitate -- are you
5 familiar with the elevation of the High Desert --

6 A It's about 2800 feet.

7 Q And would you consider that to be a four
8 seasons environment?

9 A For me it's two seasons.

10 MR. THOMPSON: Very hot and very cold.

11 THE WITNESS: It's, you know, summer and
12 winter. Very dry.

13 BY MR. LEDFORD:

14 Q Okay. There's -- would you be willing
15 to say that there's a number of days out of the
16 year where the temperatures would be cold enough
17 to generate steam? If it's a two season
18 environment?

19 A To generate steam, you need to
20 understand this, you do not generate steam if you
21 have relative humidity low enough that you will
22 not see -- the water that is condensed clearly
23 cannot be condensed because it's going to be
24 evaporated in the ambient. It's going to be --
25 you can't see it. You can only see it on a rainy

1 day, cold day, when the air is saturated with the
2 moisture, and then that steam cannot be -- that is
3 leaving, cannot be seen. Can be seen.

4 Q But doesn't the steam itself generate
5 moisture in the air? Can I -- you may be able to
6 help me here. We own property that has quite
7 large lakes, and we pump water out of the ground.
8 The water comes out of the ground at about -- at
9 about 55 degrees. During about five months out of
10 the year, when -- during -- at night, of course,
11 I'm sure it's doing it, but during the morning
12 hours and the evening hours, steam comes off of
13 this water.

14 A Right.

15 Q And -- and there's no -- there's nothing
16 forcing it to, it's just coming off the water.

17 A It's probably one, two feet, one to two
18 feet high, the amount of water vapor that you can
19 see hovering over the lake.

20 Q Probably four or five feet, but --

21 A Four or five, yeah.

22 Q But, I mean, my point is, isn't there a
23 number of days out of the year -- I believe I did
24 -- I believe I actually have read this in the
25 appendix, and it seems to me like that you were

1 estimating there might be as much eight percent of
2 the year when you'd have steam plumes.

3 A Would've been done by somebody else.

4 But I --

5 Q It might've been done by CURE, I'm not
6 sure.

7 A It could be. Yeah.

8 Q Okay.

9 A But in -- in opinion of Fluor Daniel,
10 when we designed these systems, in the dry air --
11 dry, arid area like Victorville, we anticipate
12 very minimum plume. What'll usually happen, if
13 you have a rainy day, which is very seldom in that
14 area, or in the -- and it has to be wintertime,
15 you have to have favorable conditions. And it
16 usually happens in the morning.

17 Q Okay. But if there was a plume, would
18 it -- would it --

19 A You don't see anything. There is no any
20 -- no visible impact.

21 Q There's no feasible impact?

22 A Visible. Visible. Visible impact. In
23 other words, you don't see it, it does not impact
24 the environment as far as I'm not concerned. If
25 you are flying a plane, it's not going to -- the

1 pilot will be able to see the runway.

2 Q One thing that did -- that CURE did
3 mention in one of their reports was that the vapor
4 plume, if the water wasn't correctly treated,
5 could put pollutants into the environment. Has
6 this plant been designed to ensure that that can't
7 happen?

8 A Correct. This plant has been designed
9 to the highest possible standards, using water.
10 As a matter of fact, we have a zero liquid
11 discharge for the plant, which is an additional
12 capital cost for the plant, but it does minimize
13 the waste use of water.

14 Q So does that mean that the -- now, is
15 all of the water that's going to be used in the
16 plant to go through the reverse osmosis system?

17 A Most -- well, depends which water you're
18 talking about. If you are referring just to make-
19 up water for the cooling tower --

20 Q Cooling towers.

21 A Okay. That -- that water is treated
22 water.

23 Q It is treated water?

24 A Absolutely. And we are going to -- we
25 are proposing to use the proven technology to

1 treat that. And if somebody -- you -- I guess
2 your question is hypothetical. If somebody does
3 not properly treat, the cooling water would --
4 excessive concentration in the cooling tower
5 basins will carry out and contaminate surrounding
6 area around the cooling tower?

7 Q Exactly.

8 A Well, it certainly can happen. The
9 question is, how far? And I think our study in
10 Appendix I addresses this issue, in terms of what
11 is the presentation of that carry-over. It's
12 called drift, to the -- you know, neighborhood and
13 immediately adjacent to the cooling tower. As far
14 as I know, it is located very near to the tower.
15 It does not even leave the -- I think if it leaves
16 -- doesn't leave in a significant concentration
17 the property line of the plant.

18 But that -- I can't speak with any
19 authority with the specific numbers. Somebody
20 will have to go and check the appendix.

21 Q If we can just talk about the design of
22 the -- of the water treatment facility. How many
23 acre/feet per year is that water treatment
24 facility proposed to treat at the present time?

25 A The design requirement for water

1 treatment of unit or system of the plant will be
2 based on maximum usage of the water. That's the
3 normal practice.

4 Q So the maximum design of the water
5 treatment system is going to be 4,000 acre/feet
6 per year? Can you explain to me, based on a water
7 treatment system that's designed for 4,000
8 acre/feet a year and a requirement to bank 13,000
9 acre/feet of water during the first five years,
10 how you're going to operate the plant and bank the
11 water?

12 A I would like to --

13 MR. THOMPSON: Let me -- let me try
14 this. There's more than one water treatment
15 facility, and this witness may not have specific
16 information about all of them.

17 MR. LEDFORD: Are you going to --

18 MR. THOMPSON: So all I'm asking is that
19 when Mr. -- that when Zoran answers your question
20 he refer to the water treatment facility or
21 facilities that he is aware of.

22 THE WITNESS: First of all, the plant
23 has -- has a water treatment system for -- for use
24 of cooling tower. That's one system. Because
25 that water is used by cooling tower and also the

1 water is treated to protect the equipment in the
2 plant.

3 There is another source of water that
4 goes to the mineralizer, and that's the water that
5 is the water that is used by heat recovery steam
6 generators, and also washing the turbines. This
7 is the mineralized water. It's a different
8 system.

9 But in our design, we have maximized the
10 use of both system. We have combined them in such
11 a way that any discharge, effluent, is going to be
12 treated and captured through the evaporator and
13 eventually salvage the crystallizer, so we will
14 recapture the vapor, evaporative water, put it
15 back in the cooling tower, and remove the solids
16 from crystallizer. That's why I'm saying we are
17 maximizing the efficiency in terms of use of water
18 in our plant.

19 I cannot give you today any specific
20 numbers that you are asking me. I can give to you
21 in qualitative terms, not in quantitative. And I
22 think our quantitative analysis are in the
23 appendices of the document. We have given full
24 analysis based on design case. I can go and check
25 it for you -- provide the answer. But that's all

1 I can do.

2 MR. THOMPSON: Let me try and clarify
3 and see if this helps. There is a third water
4 treatment facility that this witness has no
5 knowledge of, and that's the water treatment
6 facility for the water that's going to be
7 injected. And I guess I would suggest that if
8 your questions are headed toward that particular
9 system, that we will have witnesses on in the
10 water area when we get to that that can speak to
11 that.

12 MR. LEDFORD: So we would address that
13 topic in the October 7th --

14 MR. THOMPSON: Right. Yes.

15 MR. LEDFORD: -- date? And just so
16 we're clear on this, then, the plant water
17 treatment system for the 4,000 acre/feet of water
18 is just for the plant, and the other things that
19 he's just described, the crystallizer and the
20 recirculating, and all that stuff, is that -- will
21 that be --

22 MR. THOMPSON: Well, my understanding,
23 and I'll have the witness correct me if I'm wrong,
24 is that there are in plant treatment facilities
25 for water use at the plant. And then there's a

1 water treatment facility for the water that's
2 going to be injected.

3 MR. LEDFORD: And that's separate, and
4 would have a separate witness --

5 MR. THOMPSON: Right.

6 MR. LEDFORD: Would that be Mr. Beeby?

7 MR. THOMPSON: It probably would be Mr.
8 Regan, but they'd both be there on the same day.

9 MR. LEDFORD: All right. I have no
10 further questions for this witness.

11 HEARING OFFICER VALKOSKY: Thank you.

12 Mr. Rausavljevich, you mentioned, in
13 response to one of Mr. Ledford's questions, that
14 there would be three separate dry cooling systems.
15 Is that correct?

16 THE WITNESS: Yeah. That would be,
17 because the rationale that was used by High Desert
18 Power Project is to make three things independent.
19 That provides them with more operating flexibility
20 and reliability. So if we would design the
21 cooling tower -- I mean, the dry cooling system,
22 there will be three dry cooling systems.

23 HEARING OFFICER VALKOSKY: Okay. But
24 that would only be if you use the three F
25 configuration; right?

1 THE WITNESS: Three, will be two.

2 HEARING OFFICER VALKOSKY: Okay. So
3 there's one --

4 THE WITNESS: It will be consistent with
5 --

6 HEARING OFFICER VALKOSKY: Right. One
7 dry cooling system per power train.

8 THE WITNESS: Right. Then you have --

9 HEARING OFFICER VALKOSKY: Okay.

10 THE WITNESS: -- to separate these air
11 coolers apart in order to allow air, enough air to
12 come and --

13 HEARING OFFICER VALKOSKY: Right.
14 Assuming you use the two G configuration with two
15 separate dry cooling systems, would there then be
16 enough room on the 25 acre site to accommodate
17 that type of thing?

18 THE WITNESS: I have some figures in my
19 head. Last week we've done study for 500
20 megawatts power plant, and there was a question
21 raised -- estimated -- to compare 500 against 700
22 mega. We estimated cooling, a dry cooling system
23 to be 400 feet wide and 150 feet, which when we
24 would design we'll have to probably break up this
25 piece into at least two sections. Because the --

1 now, if we have a 700 megawatts, I would have to
2 multiply this by around 40 percent to get
3 approximate area of the land required just to
4 accommodate the bundles required to --

5 HEARING OFFICER VALKOSKY: Okay. So is
6 that something that could be accommodated again on
7 a 25 acre site?

8 THE WITNESS: To properly say this,
9 because --

10 HEARING OFFICER VALKOSKY: Roughly, I
11 mean --

12 THE WITNESS: -- there are a lot of
13 other aspects when you design a dry cooling
14 system. You have to look at the machine steam
15 turbine, and ask the questions how many exhausts.
16 They have a side exhaust, verticals exhaust, the
17 bottom exhaust. And the past where we are, the
18 size of the turbines, most turbines will end up at
19 this power output with the two exhausts. That
20 means we will take left and right side and
21 separate it, two cooling systems.

22 So for me it is very difficult to answer
23 without having -- to do the study, and say this is
24 your optimum design, optimum economics. Actually,
25 that ends up in the land use. That's not -- we

1 using word land use.

2 HEARING OFFICER VALKOSKY: Okay.

3 THE WITNESS: It requires acres and
4 acres, as somebody likes to say, football fields.
5 And I agree. We've done some -- we've done South
6 Africa, we've done, you know, in areas where there
7 is absolutely no water, that you have no choice,
8 you go that way.

9 When you have water available you're
10 going to have to use water, because otherwise why
11 waste money and build a plant that is not, you
12 know, efficient?

13 HEARING OFFICER VALKOSKY: Okay. And on
14 efficiency, you indicated there was an efficiency
15 penalty due to the -- the use of the dry cooling
16 system. Without any -- you also indicated you
17 hadn't done a specific study for the High Desert
18 Power Project. But in your professional opinion,
19 what is the degree of that deficiency penalty?

20 THE WITNESS: I think we are talking --
21 again, I'll go to the last week work. I would say
22 about 20 megawatts would be required to --

23 HEARING OFFICER VALKOSKY: Okay.

24 THE WITNESS: -- to -- just for the
25 power to drive the fans. One thing I would like

1 in layman terms to use here. When you have air to
2 cool anything, the air has the characteristics
3 just about five times worse than cooling water.
4 Specific heat of air is five times smaller. That
5 means you have to move five times smaller air, in
6 terms of pounds, and using big fans. At 2800 feet
7 elevation, that's all power feed which results in
8 the power usage, and the size of it. In addition,
9 air has a very poor heat transfer characteristic
10 compared to water.

11 So this is all what drives the expense
12 and efficiency of these power plants.

13 HEARING OFFICER VALKOSKY: Okay. So
14 you're looking you said about 20 megawatts to
15 drive the fans. Now, assume we have a nominal
16 output on the plant of 700 megawatts, and with the
17 parasitic load of the fan drive and the
18 inefficiency of the air, what would then be the --
19 the nominal output of the plant?

20 THE WITNESS: Well, in that particular
21 case I would probably say it would be somewhere
22 between 20 and 30 megawatts.

23 HEARING OFFICER VALKOSKY: Okay. So --

24 THE WITNESS: We would have to -- I
25 understand there was a study done subsequently,

1 and I think these numbers are available for High
2 Power Desert, but I didn't do it.

3 HEARING OFFICER VALKOSKY: Right. Yeah,
4 and I think I'm --

5 THE WITNESS: I'm just sharing with you
6 some --

7 HEARING OFFICER VALKOSKY: I'm just
8 trying to understand this myself.

9 Other than dry cooling, would a hybrid,
10 a wet/dry system be technically feasible on this
11 project?

12 THE WITNESS: Yes, I would say it is
13 possible to design two parallel systems. One is
14 cooling tower, and next to it you put the dry
15 cooling, an air cooler. The problem there is,
16 again, efficiency.

17 Here's how -- what happens. It's a cool
18 -- it's a air cooler, or dry cooling system that
19 sense the back pressure on the steam turbine.
20 It's always higher because you cannot cool down
21 enough, sufficiently low to create low vacuum.
22 You know, and condense it. Because we know that
23 you can only generate extra power if you reduce
24 the vacuum, the condenser.

25 Air cooled condensers generally have

1 higher back pressure on the steam turbine. I
2 would say economical designs of five inches of
3 mercury, well, when -- cooling tower we design for
4 two inches. That difference in three inches of
5 mercury are 30 years operating life of the plant.
6 It results in a lot, a lot of money, the loss is
7 -- in terms of power output.

8 HEARING OFFICER VALKOSKY: That's the
9 economic. How about in terms of, again, just --
10 just simple megawatt numbers, you estimated that
11 for a dry cooling you'd have somewhere on the
12 order of 20 to 30 megawatt loss on a 700 megawatt
13 plant. How about with the use of a hybrid system?

14 THE WITNESS: Well, you could have minor
15 combinations. You could set up, says, well, I
16 have a cooling water available, let's say a
17 thousand gallons per minute. Use that, and then
18 balance so the ejection will do it by air cooling.
19 That remains to be decided by client, by --

20 HEARING OFFICER VALKOSKY: Okay. So --

21 THE WITNESS: -- waiting to see. So you
22 could have various combinations of the two
23 systems.

24 HEARING OFFICER VALKOSKY: So it would
25 be a range in your parasitic loads, and it would

1 be a range in your -- your output degradation, and
2 fundamentally what it comes down to is an economic
3 question. Is -- is that correct?

4 THE WITNESS: I believe that -- that is
5 true. It is economic question. I'm not
6 questioning that dry cooling is not going to work
7 as a piece of equipment.

8 HEARING OFFICER VALKOSKY: Right. Yea.

9 THE WITNESS: It has worked. It just --
10 it is not economical choice when you compare it to
11 the water cool system.

12 HEARING OFFICER VALKOSKY: Okay. Now,
13 do you have any opinion as to the degree of
14 additional economic cost involved by using dry
15 cooling?

16 THE WITNESS: You mean in terms of
17 dollars?

18 HEARING OFFICER VALKOSKY: Yes.

19 THE WITNESS: As far how much would be
20 --

21 HEARING OFFICER VALKOSKY: In terms of
22 basically initial capital cost -- initial capital
23 cost, and in terms of percentage for annual
24 operating cost.

25 THE WITNESS: These dry cooling systems

1 run in millions of dollars. I don't like to
2 provide the numbers, because I didn't do it. But
3 you -- you are looking not in two or \$3 million,
4 you're probably looking at a ten, \$20 million
5 system, at least, for this size.

6 HEARING OFFICER VALKOSKY: Okay.

7 THE WITNESS: It's not -- that's the
8 order of magnitude.

9 HEARING OFFICER VALKOSKY: Right, that's
10 -- okay, that's -- and that's what I'm looking
11 for, is just the range. And again, how much -- I
12 guess you'd have to do a percentage in terms of
13 additional operating costs on an annual basis,
14 would we be looking at for this.

15 THE WITNESS: Well, again, you have to
16 -- the operating costs would be basically use of
17 power, if you can consider that.

18 HEARING OFFICER VALKOSKY: Okay.

19 THE WITNESS: The -- I don't see any
20 other cost associate, except regular maintenance.

21 HEARING OFFICER VALKOSKY: Okay. So
22 there's -- there's nothing additional, other than
23 that 20 or 30 or 40 megawatt penalty that --

24 THE WITNESS: Right.

25 HEARING OFFICER VALKOSKY: -- that

1 you're paying in lost output.

2 THE WITNESS: Yeah, you don't have to
3 treat air, you know. Yeah, that's --

4 HEARING OFFICER VALKOSKY: Great. Thank
5 you.

6 Redirect, Mr. Thompson?

7 MR. THOMPSON: Nothing, thank you.

8 HEARING OFFICER VALKOSKY: Are there any
9 other questions for this witness?

10 MR. LEDFORD: I have a redirect. This
11 would be design.

12 HEARING OFFICER VALKOSKY: Pardon me?

13 MR. LEDFORD: Am I entitled to redirect?

14 HEARING OFFICER VALKOSKY: Not redirect,
15 he's not your witness.

16 MR. LEDFORD: Oh, okay.

17 HEARING OFFICER VALKOSKY: Would you
18 like to ask a follow-up question to --

19 MR. LEDFORD: A follow-up question to --
20 yes. Yes.

21 HEARING OFFICER VALKOSKY: Okay.

22 MR. LEDFORD: I'll be trained by the end
23 of this.

24 (Laughter.)

25 ///

1 RECROSS EXAMINATION

2 BY MR. LEDFORD:

3 Q Back to economics, as a follow-up
4 question. At what cost of water per acre/foot do
5 you deem that water cooling is economical?

6 A I can't answer that question. That's
7 very specific.

8 Q But if it was -- if it was one rate as
9 opposed to another rate, the comparison might make
10 the economics different. Would that be a fair
11 assumption?

12 A Certainly. One would have to -- both
13 costs, and compare, and find out what these two
14 lines cost and tell you that. I didn't do it, and
15 I don't like to volunteer this type of a number.

16 MR. LEDFORD: Fair enough.

17 HEARING OFFICER VALKOSKY: Thank you.

18 Is there anything else for Mr.
19 Rausavljevich?

20 Thank you, sir.

21 Mr. Thompson, do you have any other
22 witnesses on the Facility Design area?

23 MR. THOMPSON: We do not. Thank you.

24 HEARING OFFICER VALKOSKY: Okay. Does
25 anyone anticipate any cross examination of staff's

1 witness on the area -- the witnesses, excuse me,
2 on the areas of Facility Design?

3 MR. LEDFORD: I do.

4 HEARING OFFICER VALKOSKY: Okay. Do you
5 have any idea how long that's going to take, Mr.
6 Ledford?

7 MR. LEDFORD: Same topics, similar
8 questions.

9 HEARING OFFICER VALKOSKY: Similar
10 questions.

11 Okay. We will resume at that point,
12 following the lunch break. We'll reconvene here
13 at 1:40.

14 (Thereupon, the luncheon recess was
15 taken.)

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1 AFTERNOON SESSION

2 HEARING OFFICER VALKOSKY: Okay, back on
3 the record.

4 More housekeeping things. First, it's
5 my understanding that if necessary, the Committee
6 would prefer to extend the hours of today's
7 hearing in order to complete the agenda and
8 obviate the necessity of anyone returning
9 tomorrow. Does that create any difficulties?

10 MR. THOMPSON: No. In fact, we
11 appreciate that very much. I have had witnesses
12 ask me what they should do, having appointments
13 tomorrow in Portland and southern California, and
14 -- and extending the hours today would be greatly
15 appreciated by us.

16 HEARING OFFICER VALKOSKY: Any
17 difficulties for anyone else?

18 Mr. Baker.

19 MR. THOMPSON: Mr. Valkosky, was there a
20 time when you wanted to discuss the -- Mr.
21 Ledford's --

22 HEARING OFFICER VALKOSKY: I'm getting
23 to that, Mr. Thompson.

24 MR. THOMPSON: Oh, sorry.

25 MR. BAKER: I'm Steve Baker. My bus

1 leaves at 5:20 p.m., so I'd prefer it, if you
2 don't mind, if I could get my areas in before
3 then.

4 HEARING OFFICER VALKOSKY: Okay. And
5 your areas are Reliability --

6 MR. BAKER: And Efficiency.

7 HEARING OFFICER VALKOSKY: -- and
8 Efficiency, which follow Facility Design, which is
9 on the topic that we're on. I don't think that'll
10 be a problem.

11 Okay. Other areas, before we get to the
12 issue of subpoena. We had a question about the
13 availability of the staff witnesses on Land Use
14 and Public Health. Ms. Holmes.

15 MS. HOLMES: They're both available and
16 in the room.

17 HEARING OFFICER VALKOSKY: They are
18 available today. Okay, we will attempt to
19 accommodate that on the schedule.

20 Finally, the other area that was left
21 over from this morning, the three requests for
22 subpoena. Mr. Ledford, I understand you have
23 something to say on that.

24 MR. LEDFORD: On the Fox subpoena, I
25 believe that we have an agreement with CURE to

1 have Dr. Fox identify the documents and that we
2 would move those documents into evidence as an
3 exhibit, and that CURE would not object.

4 Have I correctly stated that?

5 MS. REYNOLDS: That's true. We have
6 agreed to allow Dr. Fox to authenticate the
7 exhibits that she's already -- or items that she
8 has already prepared and are docketed with the
9 Commission, in exchange for Mr. Ledford dropping
10 his request for a subpoena and any cross
11 examination or questioning.

12 HEARING OFFICER VALKOSKY: Okay. And
13 this would be for the topic of -- or water issues?
14 Is there -- or also the air quality?

15 MR. LEDFORD: Air -- dry cooling. Water
16 and dry cooling.

17 HEARING OFFICER VALKOSKY: Okay. So
18 that --

19 MS. REYNOLDS: We would request, if
20 possible, if we could do that today, just since
21 it's admitting only two documents, since Dr. Fox
22 is here and she wouldn't have to go to Victorville
23 just to do that. Is that possible?

24 HEARING OFFICER VALKOSKY: Is there any
25 objection to that?

1 MR. THOMPSON: None on behalf of -- on
2 the part of Applicant.

3 HEARING OFFICER VALKOSKY: Okay. We'll
4 note that, and we'll accommodate that today, too.

5 Okay. Now that leaves the two remaining
6 requests for subpoena. And again, just to refresh
7 our recollection. Mr. Ledford, could you indicate
8 specifically what you would attempt to establish
9 by having these witnesses testify, Mr. Caouette
10 and Mr. Norman?

11 MR. LEDFORD: Source and availability of
12 water; the price of the water; the issue of the
13 two-for-one consumptive use; the method of
14 implementing the judgment to cure the overdraft;
15 how much water is available. They're all typical
16 type water issues that the Mojave Water Agency is
17 responsible to address.

18 HEARING OFFICER VALKOSKY: And how would
19 this -- again, just how would this differ from
20 answers to those questions which you could expect
21 the Applicant or the staff witnesses to provide?
22 In other words, what specific expertise do these
23 gentlemen provide?

24 MR. LEDFORD: I don't believe the staff
25 or the Applicant have any knowledge of how the MWA

1 works, or whether or not that they can provide
2 water or not. It's a -- it's a wholly separate
3 body. I don't think that staff or the Applicant
4 can testify on that. They can testify as to what
5 they think, but they can't testify as to how it
6 works.

7 HEARING OFFICER VALKOSKY: Okay. So in
8 other words, assuming that Applicant has a will
9 serve or equivalent letter from the agency, that
10 would not satisfy your needs?

11 MR. LEDFORD: There isn't a will serve
12 letter as of today.

13 HEARING OFFICER VALKOSKY: Okay. Thank
14 you.

15 Any response, Mr. Thompson?

16 MR. THOMPSON: Yeah, thank you. We --
17 we regret that MWA isn't here to argue on their
18 own behalf, but let us try and put a couple issues
19 that we think are germane before the Committee.

20 Number one is the delay issue. We
21 heard, again, the first time today that Mr.
22 Ledford contemplates that this could cause some
23 delay.

24 On August 4th, Mr. Ledford filed a
25 document, a petition in which he listed the

1 questions that he would ask of Mr. Norm Caouette.
2 Those questions -- it's now 43 days later, and we
3 are very disappointed that progress wasn't made
4 with giving Mr. Caouette these questions or having
5 responses earlier. And this Committee granted Mr.
6 Ledford, per that August 4 request, a delay until
7 September 20, 45 days, to put in additional
8 testimony.

9 We're now at the tail end of that, and
10 if this request by Mr. Ledford, if the granting of
11 these petitions has the potential to result in
12 further delay, we think that that imposes an
13 unfairness upon the Applicant, and this process.
14 We think that there has been ample time.

15 Number two, we have some substantial
16 doubts that the issuing of subpoenas to the
17 Metropolitan Water Agency will result in any
18 responses that could help this Committee or the
19 Commission in the near term. My understanding is
20 that Mr. Ledford and the MWA are in litigation on
21 the judgment before the Supreme Court. I think it
22 is only logical to expect MWA to protect its
23 witnesses, to be very careful about the nature and
24 extent of any testimony that could have any impact
25 or any information pertaining to those issues that

1 are before the Supreme Court.

2 Parenthetically, we would be unhappy if
3 this proceeding were used as a vehicle to try and
4 gather that information, as well.

5 Number three, it is, after all,
6 Applicant's responsibility to put sufficient
7 information into the record so that this Committee
8 and the Commission can issue a decision. And we
9 accept that responsibility. We will be -- we
10 would be willing and would offer to take the
11 questions that would have been asked by Mr.
12 Caouette that are outlined in the August 4
13 petition by Mr. Ledford, and have Mr. Beeby or one
14 of our other water witnesses address these areas.

15 I would note that the questions that
16 were -- that Mr. Ledford wanted to ask Mr.
17 Caouette do not go to MWA policy or other
18 information that could only be known by the
19 agency. So we accept the burden of responding to
20 these questions, and adding additional information
21 for the record.

22 With regard to Mr. Norman, he apparently
23 is brand-new, or relatively new to his position.
24 I would note that his predecessor, Mr. Rowe, was
25 not among the listed potential witnesses in the

1 August 4 filing by Mr. Ledford, so I guess I would
2 have a basic question about not only the first two
3 issues, the timing and the amount that he would be
4 allowed to testify, but whether his -- his
5 expertise is such, having been there only a short
6 amount of time, that it would add sufficient
7 information into the record to justify the issuing
8 of subpoenas.

9 So, finally, let me address a couple of
10 things that Mr. Ledford said just now.

11 Source and availability of water I think
12 is one that our witnesses can handle. I think Mr.
13 Beeby is well qualified to handle that.

14 Pricing of the water. Sure, we'd like
15 to have a handle on the pricing, but like any
16 commodity, prices change. There is no evidence
17 that this price has changed or that it will
18 change. We think that that is within our purview,
19 and I suspect that no one is going to take the
20 stand and give any evidence of what the board may
21 do. If the board changes its pricing policies we
22 will file something and let you know what it is,
23 if you so desire. But I don't think anybody is
24 going to be able to predict what those pricings
25 are.

1 With regard to implementing the
2 judgment, I think here you have the same situation
3 of being on the two sides of a major piece of
4 litigation. And water availability, again, we
5 come back to the ability of our witnesses to
6 discuss those issues.

7 So I would urge that the Committee not
8 issue the subpoenas, and put the burden of
9 providing sufficient evidence into the record on
10 the Applicant, where it belongs.

11 HEARING OFFICER VALKOSKY: Will you, as
12 part of your testimony and exhibits on the water
13 issues, supply a will serve letter, or the
14 equivalent?

15 MR. THOMPSON: My understanding -- my
16 understanding is that -- that we cannot get a will
17 serve letter until the CEQA process is complete,
18 which of course involves this agency. And there
19 have been numerous discussions with the agency.
20 And there has been board action which is
21 contingent upon an acceptable environmental report
22 that we would receive a will serve letter.

23 A long, involved answer to say you don't
24 have one yet, but as soon as the process unfolds
25 and we have the proper environmental data before

1 the agency and they make a decision we will get
2 one, and we'll submit it into the record.

3 HEARING OFFICER VALKOSKY: Do you have
4 any indication from the water agency as to what
5 they consider the proper environmental
6 documentation to be? In other words, would they
7 be willing to use the Presiding Member's proposed
8 decision, or would it be a Commission decision?
9 That's what I'm asking.

10 MR. THOMPSON: I'm not sure that our
11 conversations have been that specific. Certainly
12 what I -- they're awaiting Commission action. I'm
13 afraid I can't tell you whether or not it's the
14 Presiding Member's report which I would urge upon
15 them, or a final decision.

16 HEARING OFFICER VALKOSKY: Thank you.

17 MS. HOLMES: Mr. Valkosky.

18 HEARING OFFICER VALKOSKY: Ms. Holmes.

19 MS. HOLMES: If I could just point, at
20 the last workshop we had discussions with VVWD,
21 and they indicated that they -- they filed a
22 letter with us, I can't remember the date of the
23 letter off the top of my head, it was sometime in
24 August. And they considered that a sort of a
25 place holder so that they could provide testimony

1 to the Commission on water issues at the hearings
2 that are held to address water issues. So I know
3 they are planning to participate.

4 HEARING OFFICER VALKOSKY: Okay. So you
5 will -- staff will be sponsoring the witness from
6 the VVWD?

7 MS. HOLMES: We'll be helping them out,
8 I guess, so I don't know if sponsor is the correct
9 word.

10 HEARING OFFICER VALKOSKY: Right. I'm
11 not sure it is, either. But you will be
12 presenting a witness?

13 MS. HOLMES: Yes, we will. Mr. Buell
14 has provided me with a copy of the letter. We'll
15 probably at some point have to mark it as an
16 exhibit. It's dated August 12th, 1999, and it's
17 to Rick Buell from Randy Hill. And as I said, he
18 did indicate at the workshop that he was looking
19 at this as a place holder for testimony and that
20 he would be available to provide all testimony at
21 the time.

22 HEARING OFFICER VALKOSKY: Okay. And
23 Mr. Ledford, do you agree with Mr. Thompson's
24 characterization as to the relative inexperience
25 on the job of Mr. Norman?

1 MR. LEDFORD: Not for the issues that I
2 am -- that I intend to inquire of him. He is --
3 he is relatively new on the job. He has taken a
4 very aggressive role in his new job. He has
5 prepared for the Mojave Water Agency some
6 documentations on what the actual cost of water
7 is, and what it's going to cost to deliver. There
8 are a number of issues that Mr. Norman has taken a
9 very demonstrative leadership role with the agency
10 that we have not seen in the past. And I believe
11 that he can, as the general manager of the Mojave
12 Water Agency, offer very specific testimony as to
13 what they are doing, and what's happening in that
14 regard.

15 And I think that he can -- he's an
16 engineer, and I think that he can offer
17 information as to how this overdraft is going to
18 be cured, and his interpretation of what his role
19 as the general manager of the Mojave Water Agency
20 and his responsibilities are under the judgment to
21 cure the overdraft, because that's what his charge
22 is.

23 HEARING OFFICER VALKOSKY: And how would
24 that differ from the testimony which you would
25 hope to elicit from Mr. Caouette?

1 MR. LEDFORD: Mr. Caouette does have a
2 much longer history in the -- in the whole
3 adjudication process, and as I indicated earlier,
4 Mr. Caouette is responsible -- the responsible
5 person at the Mojave Water -- I think his actual
6 title is like Director of Planning and -- and
7 something. Research, or something. But his role
8 at the Mojave Water Agency is to analyze each new
9 project that is being approved by the various
10 agencies, and to respond to those projects and to
11 address the water issues.

12 And he was -- he was a participant in
13 the entire adjudication process. He understands
14 the replacement water issue, and that is something
15 that I'm sure the Applicant doesn't understand
16 fully, and even more certain that the staff
17 doesn't understand fully. And I'm absolutely
18 positive that you don't understand fully at this
19 point.

20 HEARING OFFICER VALKOSKY: To what -- to
21 what extent -- and we don't understand it only
22 because we haven't had the hearing on it --

23 (Laughter.)

24 HEARING OFFICER VALKOSKY: To what
25 extent would the testimony you hope to elicit be

1 different from or in addition to the questions you
2 posed in, I believe it was the August 4th letter
3 that Mr. Thompson referred to?

4 MR. LEDFORD: I don't think that there's
5 questions in there at all. There's issues. I
6 don't think there's questions. And, I mean, I --
7 my issues have been the same right along.
8 Sometimes I pose the issues as questions, does --
9 does the CEC have authority to do something, or
10 does the MWA have the authority to do something.
11 But those questions are more like outline
12 questions, they're not -- they're not all
13 inclusive of the questions.

14 HEARING OFFICER VALKOSKY: Okay. Well,
15 I guess what I'm looking for is Mr. Thompson has
16 indicated that Applicant's witnesses would be
17 prepared to respond to those issues or questions,
18 or whatever you want to call them.

19 MR. LEDFORD: Well, I -- I would have to
20 say that I expect that their responses will --
21 will not be the same as -- as the responses from
22 the Mojave Water Agency.

23 HEARING OFFICER VALKOSKY: What basis do
24 you expect that, or why do you expect that?

25 MR. LEDFORD: Well, I expect that

1 they're going to say that there's water available.
2 That they -- that they can get water. I -- and I
3 expect them to have some sort of a plan. I don't
4 know what that plan is, but I expect that they'll
5 say this is the reason we think so.

6 Now, I have -- I asked one of the
7 witnesses this morning if he knew of such a plan,
8 and he said no. So that's the first witness that
9 we've had that said he thought there would be
10 water. When I asked him if he knew how, he said
11 no.

12 Perhaps all the rest of the witnesses
13 will say the same thing.

14 HEARING OFFICER VALKOSKY: Although he
15 was not a water witness. Let's keep that
16 distinction in mind.

17 MR. LEDFORD: I -- absolutely. But he
18 made the comment first that there would be, but
19 when I asked him, turned that around and asked him
20 the question of where, if he knew where, he said
21 no.

22 So what I'm trying to tell you is, as --
23 as an example, Mr. Beeby did the water management
24 plan for the MWA, and the water management plan
25 says what it says, and we'll cross examine him on

1 what his plan for this company says. We find that
2 somewhat strange, that the same engineer that
3 works for the Mojave Water Agency and the
4 taxpayers in the region now comes in and his water
5 management plan says this is how much water that
6 we're going to need to cure the overdraft, and
7 there is not enough agency entitlement to cure the
8 overdraft in accordance with the water management
9 plan. And yet, he comes in and says we can still
10 do this. I don't know how that's going to happen.
11 And I'm sure he has a plan, because he's an
12 engineer.

13 On the other hand, I have to get down to
14 this is an equity issue with the water producers
15 in the area. And for you to understand fully the
16 equity issue for the water producers, the water
17 producers had to ramp down, they had to reduce
18 their pumping. And they had to agree to purchase
19 replacement water.

20 Now, all the water producers, or the
21 vast majority of the water producers were
22 agriculture or urban development, all of which
23 were assumed to be 50 percent consumptive users of
24 water. And for every acre/foot of replacement
25 water, in other words for a full acre/foot of

1 replacement water that is purchased to put in the
2 basin, on a 50 percent consumptive use you only
3 use half the water. So 50 percent of the water
4 goes to the net benefit of the basin. Every
5 producer of water out there is under that
6 requirement, and that is how the overdraft is
7 going to be cured.

8 Now, let's -- you need to understand
9 what's happening with this hundred percent
10 consumptive use water on a direct injection basis,
11 it's going to put all this -- this water in the
12 atmosphere. There's no positive benefit to the
13 basin. And of the entitlement water there's not
14 enough entitlement water to cure the problem.

15 So what's happening with the other
16 municipal producers, they're going to say wait a
17 minute, wait a minute. We don't like this deal.
18 We want to buy direct water from the -- from the
19 aqueduct, and we want to have a reverse 50 percent
20 credit. So what's happening is we're setting this
21 precedent.

22 HEARING OFFICER VALKOSKY: I am --

23 MR. LEDFORD: And these folks at the MWA
24 can testify to this on a -- and -- and I think
25 that they are very valid and important to this

1 process.

2 HEARING OFFICER VALKOSKY: Okay. A
3 final question before the Committee takes this
4 under submission. And it's directed toward Mr.
5 Thompson.

6 Mr. Thompson, have you explored the
7 possibility of presenting either one or both of
8 these individuals as one of your witnesses to meet
9 your burden?

10 MR. THOMPSON: The -- I can say this,
11 that the MWA General Counsel, when he heard about
12 Mr. Ledford's request, said that he was against
13 letting these witnesses testify, because -- I
14 think primarily because of the ongoing litigation.
15 And my information is that these potential
16 witnesses said they would testify only if ordered
17 to by the board. That, to me, says that they
18 would be reluctant witnesses, and possibly
19 hostile.

20 Let me -- let me reiterate that offering
21 up Mr. Beeby sounds like even a better idea than
22 it was three minutes ago. If, as Mr. Ledford
23 said, he was the author or helped write the water
24 management plan for MWA, it seems to me that Mr.
25 Ledford could get all his questions on this area

1 in and answered at that time.

2 And I would also reiterate that Mr.
3 Norman has only been there a short amount of time,
4 and even with a general manager who is one of the
5 best in the world, Mr. Larry Rowe, who he
6 succeeded, you're only going to get a reaction
7 from someone who -- who has to take things to the
8 board for approval. So in no way would any of
9 this evidence constitute, you know, what the board
10 would do.

11 (Inaudible asides.)

12 HEARING OFFICER VALKOSKY: Mr. Thompson,
13 what evidence will you be producing from the water
14 purveyor that there is sufficient water to supply
15 the proposed project?

16 MR. THOMPSON: Would -- could I have Mr.
17 Welch address this issue?

18 HEARING OFFICER VALKOSKY: Sure.
19 Would you introduce yourself, please?

20 MR. WELCH: Andrew Welch, the Project
21 Director.

22 We have from last November a letter to
23 the staff from the Mojave Water Agency general
24 manager, indicating that the board had in fact
25 acted and approved a supply of water through the

1 Victorville, that would be 4,000 acre/feet for the
2 project. And also, we have technical memorandums
3 in that indicate the -- their current use, or
4 expected use rates, deliveries on the aqueduct
5 historically, based on the 70 year history
6 available due to -- from the Department of Water
7 Resources model. There's evidence that the water
8 is expected to be available for the project.

9 HEARING OFFICER VALKOSKY: So, Mr.
10 Ledford, and again, just -- just at the present
11 time, Applicant apparently will be introducing
12 evidence from the water purveyor that the water is
13 available. I mean, so are you -- are you
14 contesting that evidence?

15 MR. LEDFORD: Yes, among other things.
16 I think he's overstating what the letter says.

17 HEARING OFFICER VALKOSKY: Well, I mean,
18 yeah, but that's -- we're talking about two
19 different things. I mean, if -- you can certainly
20 cross examine that witness on whatever the
21 assertions are in that testimony.

22 MR. LEDFORD: Well, then you have to
23 make that witness available, the person that wrote
24 the letter.

25 HEARING OFFICER VALKOSKY: The person

1 that is sponsoring the letter, that's true. Now,
2 that will be one of the Applicant's witnesses.

3 MR. LEDFORD: That's his interpretation.
4 I'm saying that the Mojave Water Agency general
5 manager, and -- and the person that would process
6 the application would be Mr. Norm Caouette,
7 because what the letter says and the conditions in
8 the letter, one of the conditions happens to be
9 compliance with the adjudication. And it -- and
10 it doesn't say that they're approved, it says that
11 they will process an application.

12 In the first place, they can't approve a
13 4,000 acre/foot of delivery of water in the year
14 2001 because they can only process an application
15 for the next year's water. So they can process an
16 application, but they can't approve -- they don't
17 know what the circumstances, they don't know
18 what's going to happen in the Supreme Court. They
19 are not going to be able to give you that. I
20 mean, Ordinance 9 is very specific, it's a one-
21 year contract for water. It is not a non-
22 interruptible source of water.

23 And I --

24 HEARING OFFICER VALKOSKY: Ms. Holmes
25 and/or Mr. Buell, has the staff's analysis taken

1 into account these matters, and have conditions
2 been proposed to address them?

3 MS. HOLMES: The question of the long-
4 term availability of water is addressed in the
5 testimony of Mr. O'Hagan. Mr. O'Hagan is our
6 staff witness on the water.

7 HEARING OFFICER VALKOSKY: And
8 conditions have been proposed to address these
9 things as appropriate?

10 MS. HOLMES: I don't know that there are
11 any conditions. I'm not aware of any conditions
12 in staff's testimony that go specifically to
13 ensuring a 30-year supply of water. In fact, I'm
14 fairly confident there aren't any.

15 MR. LEDFORD: I will -- I don't have it
16 right in front of my face, but in -- in staff's
17 testimony it -- it specifically says, their
18 testimony specifically says that there is not a
19 guaranteed source of water.

20 HEARING OFFICER VALKOSKY: Okay. Thank
21 you. And before I move on, the Committee will
22 take this matter under submission. And the
23 Committee has indicated it will rule on this
24 matter before the conclusion of today's hearing.

25 Okay. Next I'd like to go back to

1 Facility Design, which is where we left off.
2 After Facility Design, and unless there are any
3 real scheduling problems, I'd like to take the
4 staff -- excuse me, I'd like to take Dr. Fox and
5 the authentication of the exhibits, and then the
6 staff Land Use and Public Health witnesses, and
7 then return to the agenda as we have it.

8 Is that going to create a scheduling
9 problem for anyone?

10 MS. HOLMES: That doesn't create any
11 problem at all. I would note that during the
12 lunch hour I discussed with Mr. Ledford his
13 potential cross examination of staff on the
14 Facility Design issue, and he agreed to ask his
15 questions of Mr. Baker on Power Plant Reliability
16 and Efficiency with the understanding that staff
17 will not object to any of those questions on the
18 grounds that they should've been asked during
19 Facility Design.

20 So that's an area I believe now that we
21 could receive by declaration, if you want me to
22 identify those.

23 MR. LEDFORD: That's correct.

24 HEARING OFFICER VALKOSKY: Is that
25 correct? Okay.

1 MS. HOLMES: Staff's Facility Design
2 testimony is found in the staff assessment,
3 Exhibit 82, and Errata that were filed in Exhibit
4 83, and in Exhibit 104. And the Declarations and
5 witnesses are found in a variety of filings. Let
6 me see if I can list them all. Exhibit 104,
7 Exhibit 105, and Exhibit 83, again.

8 HEARING OFFICER VALKOSKY: Okay. Is
9 there objection to receiving those designated
10 documents into the evidentiary record?

11 MR. THOMPSON: None from Applicant.

12 HEARING OFFICER VALKOSKY: Ms. Reynolds?

13 MS. REYNOLDS: None.

14 HEARING OFFICER VALKOSKY: Mr. Ledford?

15 MR. LEDFORD: None.

16 HEARING OFFICER VALKOSKY: Okay. They
17 are so entered.

18 (Thereupon, Staff's Declarations on
19 Facility Design contained in Exhibits
20 82, 83, 104, and 105, were admitted
21 into evidence.)

22 HEARING OFFICER VALKOSKY: Okay. Before
23 we get back on track, Ms. Fox, the authentication
24 of the exhibits.

25 Swear the witness, please.

1 (Thereupon, Phyllis Fox was, by the
2 Reporter, sworn to tell the truth and
3 nothing but the truth.)

4 MR. LEDFORD: Approach the witness?

5 (Inaudible asides.)

6 TESTIMONY OF

7 PHYLLIS FOX

8 called as a witness on behalf of Intervenor,
9 having been first duly sworn, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. LEDFORD:

13 Q Dr. Fox, I've handed you an exhibit, and
14 it is identified as --

15 HEARING OFFICER VALKOSKY: Mr. Ledford,
16 could you stand by the microphone so the reporter
17 picks up everything?

18 MR. LEDFORD: We need to add that as a
19 new number, so it would be 119?

20 HEARING OFFICER VALKOSKY: Okay. If you
21 could identify the document, please.

22 BY MR. LEDFORD:

23 Q Dr. Fox, can you identify that document?

24 A CURE's preliminary analysis of dry
25 cooling for the High Desert Power Project.

1 Q And was that document prepared by you?

2 A It was.

3 Q And is that document, along with the
4 exhibits, the document that was docketed in this
5 case, to the best of your knowledge?

6 A To the best of my knowledge, yes.

7 MR. LEDFORD: I would request that that
8 document be entered as Exhibit 119.

9 HEARING OFFICER VALKOSKY: What is the
10 date on that document? Is there -- is there a
11 date of preparation?

12 MR. LEDFORD: Yes.

13 HEARING OFFICER VALKOSKY: And it is?

14 MR. LEDFORD: It's --

15 THE WITNESS: March 30th, 1999.

16 HEARING OFFICER VALKOSKY: Okay. Is
17 there any objection to receiving that document as
18 Exhibit 119 into the -- admitting it into the
19 record at this time?

20 Mr. Thompson?

21 MR. THOMPSON: No, sir.

22 HEARING OFFICER VALKOSKY: Staff?

23 MS. HOLMES: No.

24 HEARING OFFICER VALKOSKY: No objections
25 from any other party?

1 Okay, it's admitted.

2 (Thereupon, the above-referenced
3 document was marked for identification
4 as Exhibit 119 and was admitted
5 into evidence.)

6 MR. LEDFORD: Unfortunately, the other
7 document, if there's no objection, the actual
8 document is being copied at the moment. We can
9 either call her back or we can -- I can identify
10 what the document is.

11 HEARING OFFICER VALKOSKY: If you could
12 identify it, and make sure you provide all the
13 parties --

14 MR. LEDFORD: The document is --

15 HEARING OFFICER VALKOSKY: -- a copy of
16 the document, and that the document is docketed.

17 MR. LEDFORD: The document is docketed.

18 HEARING OFFICER VALKOSKY: Okay. Okay,
19 so we'll identify it as Exhibit 120.

20 (Thereupon, the above-referenced
21 document was marked for identification
22 as Exhibit 120.)

23 HEARING OFFICER VALKOSKY: Would you
24 continue, please.

25 ///

1 BY MR. LEDFORD:

2 Q Dr. Fox, did you prepare for CURE a well
3 interference report for this project?

4 A I did.

5 Q And can you tell me what the date,
6 approximate date of the document was?

7 A Well, you're really testing my memory
8 now. I believe it was June of 1998.

9 Q Was there a later document, perhaps in
10 October?

11 A Perhaps.

12 MR. LEDFORD: How do we want to deal
13 with the record? I think we know that the
14 document is dated sometime in October. It is
15 docketed, and there is a docket number on it.

16 HEARING OFFICER VALKOSKY: Okay. I'll
17 date it in accordance with its docketed date.

18 BY MR. LEDFORD:

19 Q And did you prepare that document?

20 A I did.

21 Q And since you don't have it in front of
22 you, but the docket -- the document that has been
23 submitted by CURE and docketed should be a true
24 and correct copy of the document that you
25 prepared.

1 A I -- I assume so. I don't have it in
2 front of me.

3 MR. LEDFORD: I'm a little lost as to
4 the best way to conclude here.

5 MR. THOMPSON: If I may?

6 MR. LEDFORD: Sure.

7 MR. THOMPSON: In your exhibit list, on
8 the first page, Item 7, is a 10/16/98 letter to
9 Mr. Buell enclosing well interference effects at
10 High Desert from Adams Broadwell, et cetera. Is
11 that -- is that it, 10/16? I think that's
12 probably -- strikes me as the date of -- this was
13 done.

14 MR. LEDFORD: Right. I would move that
15 that document be entered as Exhibit 120.

16 HEARING OFFICER VALKOSKY: Okay. Is
17 there objection?

18 Mr. Thompson?

19 MR. THOMPSON: No.

20 HEARING OFFICER VALKOSKY: Ms. Holmes?

21 MS. HOLMES: No.

22 HEARING OFFICER VALKOSKY: Okay. So
23 ordered.

24 (Thereupon, Exhibit 120 was admitted
25 into evidence.)

1 HEARING OFFICER VALKOSKY: Ms. Reynolds,
2 any --

3 MS. REYNOLDS: No.

4 HEARING OFFICER VALKOSKY: Mr. Ledford,
5 anything further?

6 MR. LEDFORD: Nothing further.

7 HEARING OFFICER VALKOSKY: Thank you,
8 Dr. Fox.

9 All right. And again, since we're on
10 loose ends, let's return to the topic of Land Use.

11 MS. HOLMES: Thank you. Staff calls
12 David Flores.

13 (Thereupon, David Flores was, by the
14 Reporter, sworn to tell the truth and
15 nothing but the truth.)

16 TESTIMONY OF

17 DAVID FLORES

18 called as a witness on behalf of Staff, having
19 been first duly sworn, was examined and testified
20 as follows:

21 DIRECT EXAMINATION

22 BY MS. HOLMES:

23 Q Good afternoon, Mr. Flores. Do you have
24 in front of you a document that's been labeled
25 Exhibit 82, it's the staff assessment from

1 January?

2 A No, I do not.

3 Q Do you have the Land Use section of that
4 document?

5 A Yes, I do.

6 Q Thank you. Was that section prepared by
7 you or under your direction?

8 A Prepared by me.

9 Q Do you have any changes or corrections
10 to that document?

11 A No, I do not.

12 Q Are the facts contained in that document
13 true and correct to the best of your knowledge?

14 A Yes, they are.

15 Q Do the opinions in that document
16 represent your best professional judgment?

17 A Yes, they do.

18 MS. HOLMES: Mr. Flores is available for
19 cross examination.

20 HEARING OFFICER VALKOSKY: Mr. Thompson.

21 MR. THOMPSON: No questions. Thank you.

22 HEARING OFFICER VALKOSKY: Ms. Reynolds?

23 MS. REYNOLDS: No questions.

24 HEARING OFFICER VALKOSKY: Mr. Ledford.

25 ///

1 CROSS EXAMINATION

2 BY MR. LEDFORD:

3 Q On page 126 of the document, the top of
4 the page, it says City of Adelanto, and I think
5 we're talking about laws, rules and ordinances.
6 I'm -- maybe not. Is that still a part of the
7 laws, rules and ordinances section of this
8 document?

9 A Yes, it is.

10 MS. HOLMES: Excuse me.

11 MR. LEDFORD: All right, I --

12 MS. HOLMES: I'm sorry. I need to ask a
13 question of clarification. Are you talking about
14 the City of Victorville Municipal Code, which is
15 at the top of the page?

16 MR. LEDFORD: No, I'm talking about the
17 next one down.

18 MS. HOLMES: Thank you very much.

19 BY MR. LEDFORD:

20 Q All right. The -- your -- the statement
21 in the last sentence talks about the issue of the
22 location of the well field, and the pipeline, and
23 that there may -- that these issues may be
24 affected by various laws -- various cities' plans,
25 policies, and ordinances.

1 And my specific question to you, have
2 you reviewed those plans, policies and ordinances
3 to determine whether or not that the land use
4 would comply with those?

5 A Yes, I have reviewed them. They are
6 consistent with the land use policies, also the
7 specific plans adopted for -- both for the City of
8 Victorville, and also for the City of Lantoni, and
9 also under the Southern California Airport
10 Specific Plan.

11 Q Under the Southern California Airport
12 Specific Plan, did you review the environmental
13 impact report that was prepared for the Base Re-
14 use?

15 A Yes, I did.

16 Q And can you tell me, are you familiar
17 with the water issues relative to that --

18 A No, I am not.

19 Q -- environmental impact report? So --
20 okay. On page 130, on water supply pipelines, in
21 the last sentence you state, in addition, the
22 pipeline will encroach within the jurisdictions of
23 another -- a number of local regulatory agencies.
24 Balancing the various requirements will require
25 close coordination so that the project complies

1 with all LORS.

2 Can you tell me what you meant by that?

3 A Specifically, what I was addressing was
4 -- is going through the normal permitting process.
5 These water supply lines will, of course, either
6 be within a county right-of-way, city right-of-way
7 areas, or securement of necessary easements, so
8 staff's analysis just based upon going to the
9 normal permit processing, and meeting the -- the
10 various jurisdictions as to their requirements.

11 MR. LEDFORD: Excuse me just a half a
12 second.

13 BY MR. LEDFORD:

14 Q So your testimony doesn't include the
15 source of the water, or any laws, rules, or
16 ordinances that would apply to the water source.
17 Is that correct?

18 A That's correct.

19 Q On the next page, on page 131 under
20 Cumulative Impacts, you state in -- in the second
21 paragraph that based on analysis of the High
22 Desert Power Project in conjunction with potential
23 development within the foreseeable future, staff
24 does not expect the project to contribute to
25 cumulative impact on land use.

1 Can you explain that?

2 A Yes. When reviewing the specific plans
3 and also the general plans that were prepared for
4 this area, those were specifically addressed as to
5 future projects that are anticipated as part of
6 this general plan. And so those have been taken
7 into consideration as part of the specific plan --
8 specific plan that was -- that was approved by
9 both the city and also as part of the Southern
10 California Plan.

11 And so -- so staff looked at the various
12 zoning and general plan policies, and essentially
13 this project is consistent with that.

14 Q And again, your -- this cumulative
15 impacts analysis does not study whether there's an
16 availability of water to service the project.

17 A Correct.

18 MR. LEDFORD: It's just land use.

19 I have no further questions.

20 HEARING OFFICER VALKOSKY: Any redirect,
21 Ms. Holmes?

22 MS. HOLMES: No.

23 HEARING OFFICER VALKOSKY: Anything
24 further from anyone present on the topic of Land
25 Use?

1 Thank you, Mr. Flores.

2 MS. HOLMES: Mr. Valkosky, I'd move that
3 Mr. Flores' testimony then be entered into
4 evidence at this time.

5 HEARING OFFICER VALKOSKY: Is there
6 objection to receiving those designated portions
7 of the exhibit as evidence?

8 There is none. They are so admitted.
9 Public Health. Ms. Holmes.

10 MS. HOLMES: Thank you. Staff calls Dr.
11 Odoemelam.

12 (Thereupon, Obed Odoemelam was, by the
13 Reporter, sworn to tell the truth and
14 nothing but the truth.)

15 TESTIMONY OF

16 OBED ODOEMELAM

17 called as a witness on behalf of Staff, having
18 been first duly sworn, was examined and testified
19 as follows:

20 DIRECT EXAMINATION

21 BY MS. HOLMES:

22 Q Dr. Odoemelam, do you have with you the
23 Public Health portions of the staff assessment,
24 which has been identified as Exhibit 82, and the
25 April 9th Errata, which has been identified as

1 Exhibit 85?

2 A Yes, I do.

3 Q And do you also have, or are you
4 familiar with the Declarations and Qualifications
5 that were filed on the 7th of October, which has
6 been identified in a document that's been
7 identified as Exhibit 104?

8 A Yes, I do.

9 Q Was the Public Health testimony prepared
10 by you or under your direction?

11 A It was.

12 Q Do you have any changes or corrections
13 to that testimony?

14 A No, I don't.

15 Q Are the facts contained in that
16 testimony true and correct to the best of your
17 knowledge?

18 A Yes, they are.

19 Q And do the opinions contained in that
20 testimony represent your best professional
21 judgment?

22 A Yes, they do.

23 MS. HOLMES: Dr. Odoemelum is available
24 for cross examination.

25 HEARING OFFICER VALKOSKY: Mr. Thompson?

1 MR. THOMPSON: No questions, thank you.

2 HEARING OFFICER VALKOSKY: Ms. Reynolds?

3 MS. REYNOLDS: No questions.

4 HEARING OFFICER VALKOSKY: Mr. Ledford.

5 CROSS EXAMINATION

6 BY MR. LEDFORD:

7 Q In your Errata on Public Health, you
8 have stated that the water conserving policies of
9 the State Water Resources Control Board points to
10 dry cooling as the appropriate alternative to wet
11 cooling in the power plants. Do you believe that
12 dry cooling is the appropriate method of cooling
13 this power project in the High Desert?

14 A It will be appropriate. I believe that.

15 MR. LEDFORD: Thank you. I have no
16 further questions.

17 HEARING OFFICER VALKOSKY: Any redirect,
18 Ms. Holmes?

19 MS. HOLMES: No.

20 HEARING OFFICER VALKOSKY: Dr.
21 Odoemelum, does your testimony, specifically the
22 Errata, Exhibit 85, mean that you are, from a
23 public health perspective, recommending that dry
24 cooling be used on the project?

25 THE WITNESS: Not necessarily. But it

1 just, from a water conservation point of view, it
2 will be appropriate.

3 HEARING OFFICER VALKOSKY: Be
4 appropriate, but then is -- that is not a
5 recommendation that it be employed?

6 THE WITNESS: Not from a public health
7 standpoint.

8 HEARING OFFICER VALKOSKY: Thank you.

9 Any other questions on the area of
10 Public Health? Thank you.

11 MS. HOLMES: At this time I would move
12 that Dr. Odoemelam's testimony be entered into the
13 record.

14 HEARING OFFICER VALKOSKY: Is there any
15 objection?

16 Those portions of the respective
17 exhibits are received into evidence.

18 (Thereupon, Staff's Declarations on
19 Public Health contained in Exhibits 82,
20 85, and 104 were admitted into
21 evidence.)

22 HEARING OFFICER VALKOSKY: The next
23 topic is Reliability.

24 MR. THOMPSON: Thank you, Mr. Valkosky.
25 We have had Mr. Rausavljevich on the stand

1 previously for Facility Design and Facility
2 Description, and he has had numerous questions
3 asked of him about Reliability and Efficiency. I
4 would propose to put him on, if it is okay with
5 yourself and the staff, to put him on for both
6 Reliability and Efficiency. I note that the staff
7 has the same witness for both, as well, and it may
8 speed things along.

9 HEARING OFFICER VALKOSKY: Okay. Is
10 there objection to that?

11 MS. HOLMES: Not as long as we're
12 allowed to do the same thing with our own witness.

13 HEARING OFFICER VALKOSKY: You may.

14 Mr. Ledford, does that suit your needs?

15 MR. LEDFORD: No objection.

16 HEARING OFFICER VALKOSKY: Fine.

17 Proceed, Mr. Thompson.

18 MR. THOMPSON: Applicant would like to
19 call Mr. Zoran Rausavljevich. Mr. Rausavljevich
20 has been previously sworn.

21 TESTIMONY OF

22 ZORAN RAUSAVLJEVICH

23 called as a witness on behalf of Applicant, having
24 been previously duly sworn, was examined and
25 testified further as follows:

1 DIRECT EXAMINATION

2 BY MR. THOMPSON:

3 Q Would you please state your name for the
4 record again?

5 A My name is Zoran Rausavljevich.

6 Q Thank you. And am I correct that your
7 testimony in both the areas of Reliability and
8 Efficiency were submitted as part of Exhibit 95 in
9 this proceeding?

10 A That's correct.

11 Q Do you have any corrections or additions
12 to that material?

13 A No, I don't.

14 Q Would you very briefly summarize Project
15 Reliability and Efficiency, unless you did so when
16 you previously testified?

17 A I'd like to just address a few issues.
18 When we -- we did preliminary design, how we
19 approached reliability and why we used the
20 capability of 95 percent for clarification,
21 because I understand staff assessment was that the
22 average reliability over the life of the plant is
23 more likely to be 90 percent, we used 95 percent.
24 We used 95 percent for reason of permitting
25 purposes, because the plant, at the first year

1 operation, is likely to operate at higher
2 efficiencies. And the permit, NOx emissions and
3 other emissions should be based on the higher
4 numbers. So it was a worst case scenario.

5 We do agree that over a period of
6 extended life, the ability will be somewhat lower,
7 because the equipment gets old, deteriorates. So
8 average ability will probably be 90 percent, even
9 lower.

10 Q Thank you. So over the life of the
11 project, you don't believe that there's any
12 discrepancies or differences between your analysis
13 and the staff's analysis; is that right?

14 A We agree with their conclusions.

15 MR. THOMPSON: Great. Thank you very
16 much. Mr. Rausavljevich is tendered for cross
17 examination in the areas of Reliability and
18 Efficiency.

19 HEARING OFFICER VALKOSKY: Ms. Holmes?

20 MS. HOLMES: No questions.

21 HEARING OFFICER VALKOSKY: Ms. Reynolds?

22 MS. REYNOLDS: No questions.

23 HEARING OFFICER VALKOSKY: Mr. Ledford.

24 MR. LEDFORD: Thank you.

25 ///

1 CROSS EXAMINATION

2 BY MR. LEDFORD:

3 Q Can you tell me how important that water
4 availability is to the reliability of this plant?

5 A Well, reliability of ability are two
6 different things, the way I look at it. If you
7 have -- you have to have water in order to cool
8 the plant, reject the heat. I understand water is
9 available from two sources. One comes from the
10 State Water Project, another one, if the State
11 Water Project is down, the plant will use the
12 groundwater. That's my understanding.

13 So if this is the case, the water is
14 available.

15 Q I --

16 A From engineering point of view.

17 Q I believe the testimony in this case,
18 and the conditions that at least are tentatively
19 proposed, is that the only water that this project
20 can use, under any condition whatsoever, is State
21 Project water, and that the only way that -- that
22 they can use water in the ground, assuming that
23 they can use it under the present conditions, is
24 if it's been pre-banked. Is that your
25 understanding?

1 A I was not privy to this discussion. I'm
2 just telling from engineering point of view, you
3 have to have water to cool the plant. This is the
4 water cooled plant. If the water is not available
5 from any sources then you cannot operate.

6 Q I mean, from a practical standpoint, if
7 the only source of water is -- is a one-year
8 contract that is only reviewable and renewable on
9 an annual basis, does it seem pragmatic and
10 prudent to enter into a project of this magnitude
11 with -- with an unreliable source of water?

12 MR. THOMPSON: I -- I think I'd like to
13 object to this. This seems to me to be a question
14 that should be directed at -- at the -- either the
15 project manager, regarding the prudence of going
16 forward with a project like this. I'm sure that
17 Mr. -- we could offer Mr. Barnett, his views on
18 whether or not a project should go forward. But I
19 do not believe that this is a proper question for
20 --

21 HEARING OFFICER VALKOSKY: I agree, Mr.
22 Thompson. I'll sustain that objection. I think,
23 Mr. Ledford, you may want to rephrase your
24 question. The witness is not testifying from an
25 overall point of view as to the prudence of the

1 project. He's --

2 MR. LEDFORD: I -- I got the gist of it.

3 HEARING OFFICER VALKOSKY: -- testifying
4 to the engineering ability.

5 MR. LEDFORD: I got the gist of it.

6 HEARING OFFICER VALKOSKY: Okay.

7 BY MR. LEDFORD:

8 Q If there was -- if there was not a
9 reliable source of water for the project, then the
10 project itself would not be reliable. Would you
11 agree with that?

12 A That's a good statement.

13 Q Thank you. I have no further questions.

14 HEARING OFFICER VALKOSKY: In your view,
15 is a single -- or does the availability of water
16 from only the State Water Project pose any
17 reliability problems?

18 THE WITNESS: I don't know much about
19 the State Water Project to be able to answer that
20 question.

21 HEARING OFFICER VALKOSKY: Okay. Is
22 there any difference between the two and three
23 train configurations in terms of reliability?

24 THE WITNESS: Well, reliability is a
25 function, several factors. More equipment, more

1 problems to take care of. But at the same
2 talking, three F configuration has three trains
3 versus two trains, so I think reliability of three
4 F is probably higher because even if you don't
5 operate the full three you can operate with two.

6 So in my opinion, three F is more
7 reliable.

8 HEARING OFFICER VALKOSKY: Okay. Thank
9 you.

10 Redirect, Mr. Thompson?

11 MR. THOMPSON: None, thank you.

12 HEARING OFFICER VALKOSKY: Any other
13 questions for the witness on the areas of
14 Efficiency and Reliability?

15 Are there any documents you intend to
16 move at this time, Mr. Thompson?

17 MR. THOMPSON: No, sir. They're part of
18 the AFC.

19 HEARING OFFICER VALKOSKY: Thank you.

20 MS. HOLMES: Thank you. Staff's witness
21 on Reliability and Efficiency is Steve Baker.

22 (Thereupon, Steve Baker was, by the
23 Reporter, sworn to tell the truth and
24 nothing but the truth.)

25 ///

1 TESTIMONY OF
2 STEVE BAKER

3 called as a witness on behalf of Staff, having
4 been first duly sworn, was examined and testified
5 as follows:

6 DIRECT EXAMINATION

7 BY MS. HOLMES:

8 Q Mr. Baker, do you have with you a copy
9 of the staff assessment that has been designated
10 as Exhibit 82?

11 A Yes.

12 Q Does that document contain your
13 testimony on Reliability and Efficiency, as well
14 as your witness qualifications?

15 A Yes, when combined with the later
16 Errata, it does.

17 Q That was my next question. Do you also
18 have with you a copy of the Errata that were filed
19 on April 9th, which has been designated as Exhibit
20 85?

21 A Yes.

22 Q Were the Reliability and Efficiency
23 portions of those documents prepared by you or
24 under your direction?

25 A I prepared them.

1 Q Do you have any corrections or changes
2 to those documents?

3 A No.

4 Q Are the facts contained in those
5 documents true and correct, to the best of your
6 knowledge?

7 A Yes.

8 Q And do the opinions contained in those
9 documents represent your best professional
10 judgment?

11 A Yes.

12 MS. HOLMES: Mr. Baker is available for
13 cross examination.

14 HEARING OFFICER VALKOSKY: Mr. Thompson.

15 MR. THOMPSON: No questions, thank you.

16 HEARING OFFICER VALKOSKY: Ms. Reynolds.

17 MS. REYNOLDS: No questions.

18 HEARING OFFICER VALKOSKY: Mr. Ledford.

19 MR. LEDFORD: Thank you.

20 CROSS EXAMINATION

21 BY MR. LEDFORD:

22 Q Directing your attention first to page
23 448, at the area of fuel and water availability.
24 And if I could just leave out the word fuel,
25 because I think -- I think the fuel's okay.

1 Is it your opinion that you need a
2 reliable water resource to have a reliable project
3 here?

4 A Assuming that the project is --

5 Q Assuming that we're going to use --

6 A -- is cooled by water, yes, that's true.

7 Q And then at the top of the next page, we
8 talk about water supply reliability. And you --
9 you've addressed a significant concern on that
10 issue, as well.

11 A Yes, but I've -- I've pointed the reader
12 to the section on soil and water resources.

13 Q My question to you, sir, is have you
14 read that section?

15 A No, I have not. I have discussed it
16 with the author.

17 Q And --

18 A Could I offer to help you here, sir? If
19 you'd turn the page to page 450 and read the
20 conclusion, I say that should the question of
21 water supply reliability be satisfactorily
22 answered, then the project should provide adequate
23 reliability. So I think I've said what you're
24 looking for.

25 Q Can I ask you what -- what would -- what

1 would be your opinion of the only water supply
2 that was available as an annual contract that was
3 reviewable and renewable annually. Would you
4 consider that to be a -- a reliable water supply?

5 A I'm not brave enough to try to answer a
6 question that I don't know the answer to. I'm
7 going to have to point you to the water fellow.

8 Q All right. I -- if I could just take a
9 look -- have you take a look at your Errata, and
10 you've pointed us, again, as many other staff
11 witnesses have, to State Water Resources Control
12 Board Resolution 7558, which discourages the use
13 of fresh inland water for power plant cooling.
14 And you have discussed the dry cooling, a dry
15 cooling alternative; is that correct?

16 A Yes.

17 Q And do you believe that the dry cooling
18 alternative is a viable alternative?

19 A From a -- an engineering standpoint,
20 yes, it is. Whether it's viable from an economic
21 standpoint, I believe only the Applicant can
22 answer that.

23 Q And as a -- as a part of your review,
24 did you consider the combination of wet/dry
25 cooling as an alternative?

1 A I didn't specifically address it.
2 Wet/dry cooling is basically a compromise. It
3 falls in between wet and dry. It -- it's a
4 compromise in water consumption, it's a compromise
5 in efficiency, it's a compromise in reliability,
6 and it's a compromise in economics.

7 Q And in your role on the CEC staff are
8 there other projects that you are currently
9 working on, or have worked on in the past, that
10 have had dry cooling?

11 A Yes, the Sutter Project is dry cooling,
12 and the proposed Otai Mesa Project is also. And
13 you mentioned those earlier.

14 Q And do you have any reason to believe
15 that either one of those projects is not
16 economically feasible for the proponent of those
17 projects?

18 A I do not pretend to address the
19 economics. I would say that just on the face of
20 it, the fact that the Sutter Project will be built
21 with dry cooling shows that the owner of that
22 project thinks that it's economic.

23 Q And in that particular case, on that
24 project, was there water available that could've
25 been used for wet cooling?

1 A I -- yes, the project was originally
2 proposed for wet cooling, and it was changed
3 during the process, during the -- the Energy
4 Commission's siting process. I believe both water
5 supply and water disposal were issues in that
6 case, but if -- if you want to go into more
7 detail, I -- please, I'd have to refer you to Mr.
8 O'Hagan.

9 Q I'm -- I would take that to heart, and
10 when Mr. O'Hagan's on the stand we'll talk to him
11 about that issue, as well.

12 MR. LEDFORD: Thank you very much. I
13 have no further questions.

14 HEARING OFFICER VALKOSKY: Mr. Baker, do
15 you have any rough estimate as to the magnitude of
16 the increased capital outlay and operating
17 expenditures to implement dry cooling on this
18 project?

19 THE WITNESS: No, sir.

20 HEARING OFFICER VALKOSKY: Is there any
21 difference, in your opinion, in terms of
22 reliability and/or efficiency between the use of
23 the two or three train configuration?

24 THE WITNESS: I can't imagine there
25 would be any significant difference. In each

1 case, about one-third of the power output of the
2 plant comes from the steam turbine, and the
3 effectiveness of the steam turbine is -- is
4 controlled by the cooling system. So, really, I
5 -- I don't see any difference between the two.

6 HEARING OFFICER VALKOSKY: Okay. Do you
7 have an estimate as to the -- or can you -- let me
8 rephrase that. Can you quantify roughly the
9 extent of efficiency reduction which would occur
10 through the use of dry cooling?

11 THE WITNESS: I haven't attempted an
12 analysis on this project, but I referred back to
13 the Sutter Project. When that project was changed
14 over from wet to dry cooling, I asked the
15 Applicant to do a rough analysis of the effects on
16 efficiency. And they determined that on an
17 average annual basis, the efficiency from the dry
18 cooling plant would be about 98 percent as great
19 as that that would've been gotten from the wet
20 cooled plant. So there was only about a two
21 percent overall annual drop in efficiency. I
22 deemed that an insignificant drop in efficiency.

23 HEARING OFFICER VALKOSKY: Okay.
24 Earlier, Applicant's witness indicated that a
25 nominal 700 megawatt plant, he estimated it at

1 somewhere between the range of 20 to 30 megawatts.
2 Do you disagree with that?

3 THE WITNESS: There's a difference
4 between efficiency and power output. Yes, there
5 would be a significant drop in power output by
6 changing to dry cooling. The fuel efficiency of
7 the project, the thermal efficiency, however,
8 would not change as -- nearly as greatly as the
9 power output.

10 HEARING OFFICER VALKOSKY: Okay. So
11 we're looking -- in terms of power output, do you
12 disagree with the 20 --

13 THE WITNESS: No, I do not.

14 HEARING OFFICER VALKOSKY: Okay.

15 COMMISSIONER ROHY: Mr. Baker, I believe
16 the question was asked with regard to the Sutter
17 Project, but is it not true that climatic
18 conditions may be different at Sutter than in the
19 High Desert case?

20 THE WITNESS: I'm sure they're
21 different. I would expect the differences between
22 wet and dry cooling to be greater at the High
23 Desert site than at the Sutter Project.

24 COMMISSIONER ROHY: Could you tell me
25 what, more specifically answer the question. You

1 said the differences would be greater. Tell me in
2 more engineering terms.

3 THE WITNESS: Oh. I believe the average
4 annual humidity at the High Desert site is lower
5 than at the Sutter site.

6 COMMISSIONER ROHY: And the cause --
7 what would that result in?

8 THE WITNESS: That gives the wet cooling
9 a greater advantage over dry cooling, so that if
10 you forego the wet cooling for dry cooling you're
11 losing more at the dry site than you would at the
12 more humid site.

13 COMMISSIONER ROHY: Thank you.

14 HEARING OFFICER VALKOSKY: Final
15 question, Mr. Baker, and I refer you to actually
16 page one of Exhibit 85, which is your Errata
17 dealing with power plant efficiency. The very
18 last two lines on that -- on that page, under
19 number 3. While utilization of dry cooling would
20 yield a small drop in efficiency, the benefits of
21 dry cooling in terms of water supply outweigh any
22 such disadvantage.

23 Could you explain what you mean by that
24 sentence?

25 THE WITNESS: What I attempted to say

1 there is that while there would be a -- moving to
2 dry cooling would yield an adverse impact on
3 project efficiency, the magnitude of that adverse
4 impact would not be so great that it should be
5 used to preclude the switch to dry cooling.

6 HEARING OFFICER VALKOSKY: Okay. But is
7 it fair -- is it fair, then, to say that that
8 sentence does not mean that you are necessarily
9 advocating the use of dry cooling?

10 THE WITNESS: That's correct. I have no
11 position on that.

12 HEARING OFFICER VALKOSKY: Thank you.

13 Any redirect, Ms. Holmes?

14 MS. HOLMES: None.

15 HEARING OFFICER VALKOSKY: Is there
16 anything else for any other parties on the topics
17 of Reliability or Efficiency?

18 MR. LEDFORD: Could I ask a couple of --
19 I got lost on -- we were talking about efficiency,
20 I guess, but I also forgot that I was going to ask
21 him questions on Plant Design. May I ask a couple
22 of follow-on questions?

23 HEARING OFFICER VALKOSKY: Sure.

24 ///

25 ///

1 RECROSS EXAMINATION

2 BY MR. LEDFORD:

3 Q First, on the Plant Design. The -- to
4 the best of your knowledge, have these turbine
5 generators in this size, either in the dual or
6 tri-configuration, been built in the past?

7 A Yes. There are numerous F class gas
8 turbines operating around the continent. There's
9 one currently operating in California, at the
10 Crockett Cogeneration Plant. I understand that
11 the first 60 cycle, the 60 hertz G class machine
12 is -- is in start-up on the East Coast, and I --
13 I'm a little behind on my reading of the trade
14 press, but I believe it's probably running by now.

15 Q There was another question raised on
16 actually the permitting process. I'm not sure
17 you're the right witness. It had to do with the
18 Warren-Alguist Act on either one of these multiple
19 generating plants. Are you aware of that, and can
20 you offer any enlightenment as to what those
21 issues are?

22 A I'm sorry, I'm completely without any
23 answers there.

24 MR. LEDFORD: Okay. Let -- if I could
25 just take one quick look.

1 I have no further questions.

2 HEARING OFFICER VALKOSKY: Any redirect?

3 No redirect. Anything else for Mr. Baker on the
4 topics of Reliability and Efficiency?

5 Thank you, Mr. Baker. You're excused.

6 Waste Management --

7 MS. HOLMES: I'd move that Mr. Baker's
8 testimony on Reliability and Efficiency be entered
9 into the record.

10 HEARING OFFICER VALKOSKY: I'm sorry.

11 MS. HOLMES: You just don't want to do
12 that today.

13 (Laughter.)

14 HEARING OFFICER VALKOSKY: So ordered.

15 (Thereupon, the Staff's Declaration on
16 Reliability and Efficiency contained in
17 Exhibits 82 and 85 were admitted into
18 evidence.)

19 HEARING OFFICER VALKOSKY: When you try
20 to do things too fast certain things get left out.
21 You're right. Evidence should not be one of the
22 things. We'll receive those into the evidentiary
23 record.

24 The next topic is Waste Management.

25 Mr. Thompson.

1 MR. THOMPSON: Thank you. Applicant
2 would like to call Mr. John Mullen to the stand.
3 Mr. Mullen has not been sworn.

4 (Thereupon, John Mullen was, by the
5 Reporter, sworn to tell the truth and
6 nothing but the truth.)

7 TESTIMONY OF

8 JOHN MULLEN

9 called as a witness on behalf of Applicant, having
10 been first duly sworn, was examined and testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. THOMPSON:

14 Q Please state your name for the record.

15 A John Mullen.

16 Q And you are the same John Mullen, am I
17 correct, that has submitted prepared testimony
18 that is now contained in Exhibit 5 to -- 95 to
19 this proceeding?

20 A Yes.

21 Q In that testimony you offered material
22 on Worker Safety, Fire Protection, Waste
23 Management, and Hazardous Waste Management.

24 With regard to Waste Management, have
25 you reviewed the material that you are sponsoring

1 that was contained in the original AFC, and do you
2 adopt it as your own?

3 A I -- I reviewed the material, and it's
4 reasonable to me.

5 Q Okay. Do you have any further comments
6 to add on the Waste Management area?

7 A No, I don't.

8 MR. THOMPSON: Okay. Tender Mr. Mullen
9 for cross examination on the area of Waste
10 Management.

11 HEARING OFFICER VALKOSKY: Ms. Holmes?

12 MS. HOLMES: No questions.

13 HEARING OFFICER VALKOSKY: Ms. Reynolds?

14 MS. REYNOLDS: No questions.

15 HEARING OFFICER VALKOSKY: Mr. Ledford.

16 MR. LEDFORD: No questions.

17 HEARING OFFICER VALKOSKY: Sir, this
18 doesn't appear in your testimony, but on page 113
19 of the staff testimony dealing with the disposal
20 of non-hazardous waste, there are statements that
21 identified landfills have lives of -- lives
22 expiring in, respectively, the year 2005 and 2007.
23 Is that correct?

24 THE WITNESS: I'm not really qualified
25 to discuss landfill lifetimes. I'm not familiar

1 with the topic.

2 HEARING OFFICER VALKOSKY: Okay. Okay.

3 Were we going to combine the Hazardous
4 Material at the same time?

5 MR. THOMPSON: I was not planning on it.
6 The same witness is going to be in Hazardous, but
7 I note that staff has a different witness.

8 HEARING OFFICER VALKOSKY: I'd prefer
9 not to.

10 MR. THOMPSON: Okay. That's what I
11 thought you'd say.

12 HEARING OFFICER VALKOSKY: Okay. Excuse
13 me, sir. If you could just refresh with me. Do
14 you have any -- are you capable of testifying on
15 the Applicant's plans for disposal of the non-
16 hazardous waste?

17 THE WITNESS: No, I'm not.

18 HEARING OFFICER VALKOSKY: Okay. Thank
19 you.

20 MR. THOMPSON: Applicant would like to
21 call Ms. Amy Cuellar, in the area of Waste
22 Management. Ms. Cuellar has not been sworn.

23 (Thereupon, Amy Cuellar was, by the
24 Reporter, sworn to tell the truth and
25 nothing but the truth.)

1 TESTIMONY OF

2 AMY CUELLAR

3 called as a witness on behalf of Applicant, having
4 been first duly sworn, was examined and testified
5 as follows:

6 DIRECT EXAMINATION

7 BY MR. THOMPSON:

8 Q Ms. Cuellar, would you state your name
9 for the record, and your position, and your place
10 of employment, please?

11 A Amy Cuellar. I'm the Environmental
12 Project Manager for RMI Navigant Consulting.

13 Q And as the Project Manager you had a
14 hand in the overall environmental management of
15 the information gathered for the AFC; is that
16 correct?

17 A Yes.

18 Q And in that respect, Section 1-1.4, 1.4
19 of the AFC, was prepared by you or under your
20 direction?

21 A Yes.

22 Q Other exhibits that we are asking you to
23 sponsor today are documents that were gathered by
24 you and submitted in response to data requests; is
25 that correct?

1 A Correct.

2 Q Do you have any corrections, additions,
3 or deletions to make to that material that's been
4 submitted?

5 A (No audible response.)

6 Q Do you have anything to add, or would
7 you like to summarize any part of the -- your
8 Waste Management testimony?

9 A Well, just to summarize very quickly.
10 What I'm sponsoring into the record today is
11 responsive to data requests relating primarily to
12 soil and groundwater contamination ongoing
13 remediation activities at the Southern California
14 Logistics Airport. The conclusions that were
15 reached in those data requests were primarily
16 supported by existing documentation for the
17 ongoing remediation at the base.

18 Q Would you be the correct witness to ask
19 about the landfills?

20 A I knew he was going there.

21 (Laughter.)

22 THE WITNESS: I could look into
23 confirming the estimated life estimates of those
24 landfills, if that's what you --

25 ///

1 BY MR. THOMPSON:

2 Q That would be helpful.

3 A Yeah, and get back to you on that. But
4 I'm not qualified to confirm them right now.

5 Q How long do you think that'll take? I
6 mean, is it something that can be done within the
7 scope of today's hearing, or is this something
8 that would have to be continued over at --

9 A I would probably have to -- can we make
10 some phone calls and continue that? Unless staff
11 possibly could confirm --

12 MR. THOMPSON: At the -- let me offer
13 this. At the close of the hearing today, we will
14 either -- before 6:00 o'clock, or whenever you
15 have an appointment, we will either put Ms.
16 Cuellar back on the stand to answer this question,
17 or we may propose that we answer this by statement
18 and filing of counsel, or we can put it in at
19 another date.

20 HEARING OFFICER VALKOSKY: Okay.

21 MR. THOMPSON: Let us try and get that
22 information this afternoon.

23 HEARING OFFICER VALKOSKY: All right.
24 How about the status of the DTSC permit, which we
25 have had considerable discussion on earlier on in

1 this proceeding?

2 BY MR. THOMPSON:

3 Q Ms. Cuellar, are you the correct witness
4 to respond to the status of that permit?

5 A Well, I do have a copy of a letter dated
6 September 2nd from the DTSC to Richard Buell,
7 which summarizes that the HDPP is exempt from the
8 permit.

9 HEARING OFFICER VALKOSKY: Is that the
10 same exhibit, Ms. Holmes, that you identified
11 earlier?

12 MS. HOLMES: No, it's not. The exhibit
13 that I identified before, or the letter that I
14 identified before that you have labeled Exhibit
15 107, is a letter from the Director of DTSC to
16 Commissioner Sharpless, who was the Presiding
17 Member at -- of the Committee at that time. And
18 it attaches -- it has as attachments to it three
19 letters, one dated July 8th, one dated September
20 2nd that she's referring to, and another one dated
21 October 2nd to another party.

22 So I thought it would be best if -- to
23 put in the --

24 HEARING OFFICER VALKOSKY: So it is
25 included with --

1 MS. HOLMES: -- the September 4th which
2 covers all three letters.

3 HEARING OFFICER VALKOSKY: Okay. All
4 right, fine. We'll deal with it. I take it
5 you're going to introduce that as part of your
6 testimony?

7 MS. HOLMES: I don't think I have much
8 choice.

9 HEARING OFFICER VALKOSKY: Okay.

10 (Laughter.)

11 HEARING OFFICER VALKOSKY: We'll leave
12 it at that, then.

13 I'm sorry. Mr. Thompson, do you have
14 anything else for Ms. Cuellar?

15 MR. THOMPSON: I do not. Ms. Cuellar is
16 tendered for cross examination in this matter.

17 HEARING OFFICER VALKOSKY: Ms. Holmes?

18 MS. HOLMES: I have no questions.

19 HEARING OFFICER VALKOSKY: Ms. Reynolds?

20 MS. REYNOLDS: No questions.

21 HEARING OFFICER VALKOSKY: Mr. Ledford.

22 MR. LEDFORD: Thank you.

23 CROSS EXAMINATION

24 BY MR. LEDFORD:

25 Q You have testified about the water

1 contamination at George Air Force Base. And that
2 is fresh water; is that correct?

3 A I don't -- I don't know the answer to
4 that question. I testified that I put those
5 documents into the record.

6 Q So the answer --

7 A I don't -- I can't respond to the
8 documents that I didn't prepare. I don't know the
9 answer to your question.

10 MR. THOMPSON: Yeah, I tried to make
11 this clear, and I'm sure I goofed this up. But
12 Ms. Cuellar is kind of the overall environmental
13 project lead. When we were responding to data
14 requests she was asked to obtain certain documents
15 and information and put it in. I don't -- I'd
16 leave it up to her, but I doubt that she can
17 testify to the content of those documents.
18 Thanks.

19 MR. LEDFORD: I got it. I'll save that
20 for another witness.

21 Thank you. I have no questions.

22 HEARING OFFICER VALKOSKY: Okay. Is
23 there anything further for the witness?

24 And, Mr. Thompson, you'll let us know by
25 either 6:00 o'clock or the close of the hearing

1 today about the landfill issues?

2 MR. THOMPSON: We will.

3 HEARING OFFICER VALKOSKY: Whichever
4 comes earlier.

5 MR. THOMPSON: Yes.

6 HEARING OFFICER VALKOSKY: Thank you.

7 MR. THOMPSON: Just to make sure we
8 understand the question correctly, it is the
9 available landfills for the project and their
10 expected life?

11 HEARING OFFICER VALKOSKY: Yes, and
12 specifically, and I'm sure staff will clarify it,
13 but what gives rise to the question is, at least
14 my reading of page -- I believe it's 113 of the
15 staff's Exhibit 82, which seems to say that the
16 expected remaining life of identified landfills
17 for non-hazardous waste will expire well before
18 the operating life of the project. But I'd just
19 like some clarification on that.

20 MR. THOMPSON: I suspect we would, too.
21 Thank you.

22 HEARING OFFICER VALKOSKY: Do you have
23 any further witnesses or documents to move in on
24 this topic?

25 MR. THOMPSON: We do not in the area of

1 Waste Management.

2 HEARING OFFICER VALKOSKY: Thank you.

3 Ms. Holmes.

4 MS. HOLMES: Thank you. Staff witness
5 on Waste Management is Chris Tooker.

6 HEARING OFFICER VALKOSKY: Would you
7 swear the witness, please?

8 (Thereupon, Chris Tooker was, by the
9 Reporter, sworn to tell the truth and
10 nothing but the truth.)

11 TESTIMONY OF

12 CHRIS TOOKER

13 called as a witness on behalf of Staff, having
14 been first duly sworn, was examined and testified
15 as follows:

16 DIRECT EXAMINATION

17 BY MS. HOLMES:

18 Q I'm going to start with your testimony
19 and qualifications, and we'll get to the letter in
20 just a moment.

21 Do you have in front of you a copy of
22 the staff assessment which has been identified as
23 Exhibit 82?

24 A I do.

25 Q And a copy of Errata which has been

1 identified -- dated April 9th, which has been
2 identified as Exhibit 85?

3 A Let me check for the Errata.

4 Q We have an extra copy here if that would
5 be helpful.

6 A Yes, it would be.

7 Q Thank you. Did you prepare a statement
8 of qualifications that was filed on September 7th
9 in Exhibit 104?

10 A I did.

11 Q Thank you. Now, do you have a copy of
12 the Errata in front of you?

13 A I do.

14 Q Was this testimony prepared by you or
15 under your direction?

16 A It was prepared under my direction.

17 Q And have you had a chance to review the
18 testimony?

19 A Yes, I have.

20 Q Do you now adopt it as your own?

21 A Yes, I do.

22 Q Do you have any changes or corrections
23 to that testimony?

24 A No, I do not.

25 Q Are the facts contained in that

1 testimony true and correct to the best of your
2 knowledge?

3 A Yes, they are.

4 Q And do the opinions contained in that
5 testimony represent your best professional
6 judgment?

7 A Yes, they do.

8 Q Do you also have in front of you a
9 document that's been labeled as Exhibit 107, a
10 letter from the Department of Toxic Substances
11 Control?

12 A Yes, I do.

13 Q Can you please explain what that
14 document is?

15 A The document is a summary of DTSC's
16 position regarding the issues surrounding the
17 treatment of waste water, and whether or not an
18 exemption would be granted to the project. And it
19 concludes that the exemption to the project --
20 exemption would be granted to the project if it
21 meets certain conditions. And those conditions
22 are identified in our staff testimony, as well as
23 in the letter of September 2nd.

24 And those conditions are that the waste
25 water must be recycled at the same facility at

1 which it was generated; the waste water must be
2 recycled within 90 days of its generation; and
3 that the waste water must be managed in accordance
4 with all applicable requirements for generators of
5 hazardous waste under Health and Safety Code
6 Chapter 6.5, and regulations adopted by DTSC.

7 Q And were those requirements incorporated
8 in staff's proposed conditions of certification?

9 A Yes.

10 MS. HOLMES: Thank you. With those
11 clarifications, Mr. Tooker is available for cross
12 examination.

13 HEARING OFFICER VALKOSKY: Mr. Thompson,
14 any cross for Mr. Tooker?

15 MR. THOMPSON: Notes for cross. No, we
16 have no cross.

17 (Laughter.)

18 HEARING OFFICER VALKOSKY: Ms. Reynolds?

19 MS. REYNOLDS: No questions.

20 HEARING OFFICER VALKOSKY: Mr. Ledford.

21 MR. LEDFORD: Thank you.

22 CROSS EXAMINATION

23 BY MR. LEDFORD:

24 Q Focusing on your Errata testimony, or
25 the testimony prepared under your direction, is it

1 true that if the dry cooling alternative is
2 implemented that we won't have to worry about the
3 waste management to any significant degree.

4 A I believe the testimony states that we
5 believe that the existing project with the water
6 treatment facilities proposed would be adequate to
7 accommodate dry cooling, and that no changes in
8 conditions are needed.

9 Q Well, you've referred, as a number of
10 the other staff members have referred to the State
11 Water Resources Control Board Resolution which
12 discourages the use of fresh water, encourages dry
13 cooling. But I guess my question was a little
14 different.

15 My question was, if we use dry cooling
16 isn't it true that we won't have as much waste to
17 deal with, because we won't have a crystallizer,
18 and I guess if we have a wet/dry cooling process
19 you'd have some of it.

20 A That's not addressed in my testimony.

21 Q It may not be addressed. My -- that's
22 my question.

23 A I don't know, I cannot quantify what
24 that would be. I -- I would think logically if --

25 Q If you went to all dry cooling, let's

1 start with that one. How much waste then would we
2 be dealing with?

3 A I don't know. I can't tell you how
4 much.

5 MR. LEDFORD: Okay. I have no further
6 questions.

7 HEARING OFFICER VALKOSKY: Mr. Tooker, a
8 follow-up on Mr. Ledford's questioning. Could you
9 indicate whether it would be more or less than
10 what is used under the proposed cooling regimen?

11 THE WITNESS: Waste generation?

12 HEARING OFFICER VALKOSKY: Yes.

13 THE WITNESS: Less.

14 HEARING OFFICER VALKOSKY: Less. Thank
15 you.

16 Referring to page 113, Mr. Tooker, could
17 you explain to me the -- especially the last half
18 of the first paragraph dealing with non-hazardous
19 waste, and the lives of the identified facilities.

20 THE WITNESS: I was hoping you would
21 ask. Knowing that this might be an issue I've
22 consulted with staff. It is customary for local
23 agencies and counties, and so forth, who are
24 responsible for providing for waste facilities to
25 be engaged in a planning process for projecting

1 and identifying additional facilities that will be
2 put in place at the time, or prior to the existing
3 landfills running out of capacity.

4 So it's our expectation at this point
5 that -- that San Bernardino County is in the
6 process, and I can't give you the specifics, but
7 is in the process of identifying additional waste
8 -- non-hazardous waste disposal facility sites for
9 development and approval, for permitting, and that
10 those would be available following the -- the
11 active life of the identified landfills.

12 HEARING OFFICER VALKOSKY: And that they
13 would be also appropriate to receive the waste
14 generated during the continued operating life of
15 the proposed project?

16 THE WITNESS: Correct.

17 HEARING OFFICER VALKOSKY: Thank you.
18 One last question on Exhibit 85, which is the
19 Errata. You indicate in the final paragraph on
20 that page that staff is waiting for the Applicant
21 to provide information, additional information on
22 the reverse osmosis process.

23 My question has to do with closing that
24 loop. Has this information been provided, and did
25 it meet staff's expectations as reflected in the

1 testimony?

2 THE WITNESS: I can't answer that
3 question at this point.

4 HEARING OFFICER VALKOSKY: Okay.

5 COMMISSIONER ROHY: We're awaiting the
6 reconstruction of this room with good sound
7 systems in the month of October, so bear with me
8 when I borrow a microphone.

9 Mr. Tooker, do you see that there's any
10 difference in the amount of waste that would be
11 generated with a two train system versus the three
12 train system? And I'm not asking for a
13 quantitative answer, just a more or less answer.

14 THE WITNESS: I don't think there would
15 be any significant difference. It would all be
16 based on the amount of water that was used.

17 COMMISSIONER ROHY: Tell me what your
18 answer is, then, please, to the question. Is it
19 more, less, or not significantly differently?

20 THE WITNESS: Not significantly
21 different.

22 COMMISSIONER ROHY: Thank you.

23 HEARING OFFICER VALKOSKY: Any redirect,
24 Ms. Holmes?

25 MS. HOLMES: No.

1 HEARING OFFICER VALKOSKY: Is there
2 anything else for this witness from anyone here
3 present?

4 Thank you, Mr. Tooker.

5 MS. HOLMES: At this point I would move
6 that Exhibit 107, which is the letter from the
7 Department of Toxic Substances Control, and the
8 Waste Management Portions of staff testimony be
9 entered into the record.

10 HEARING OFFICER VALKOSKY: Is there any
11 objection to admitting those into the evidentiary
12 record?

13 Hearing none, so admitted.

14 (Thereupon, Exhibit 107 and the Staff's
15 Declarations on Waste Management
16 contained in Exhibits 82, 85, and
17 104 were admitted into evidence.)

18 HEARING OFFICER VALKOSKY: At this point
19 we'll take a recess until 3:30.

20 (Thereupon, a recess was taken.)

21 HEARING OFFICER VALKOSKY: We're going
22 to reconvene now.

23 The next topic on the agenda is Cultural
24 Resources.

25 Mr. Thompson.

1 MR. THOMPSON: Thank you. Applicant
2 would like to call Mr. William Self. Mr. Self has
3 not been sworn.

4 (Thereupon, William Self was, by the
5 Reporter, sworn to tell the truth and
6 nothing but the truth.)

7 TESTIMONY OF

8 WILLIAM SELF

9 called as a witness on behalf of Applicant, having
10 been first duly sworn, was examined and testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. THOMPSON:

14 Q Mr. Self, would you please state your
15 name and where you are employed for the record,
16 please?

17 A It's Bill Self, a Principal with William
18 Self Associates, Subcontractor to RMI on the
19 project.

20 Q And are you the same William Self that
21 has submitted prepared direct testimony that's
22 contained in Exhibit 95 to this proceeding?

23 A The same.

24 Q And if I were to ask you the questions
25 contained therein would your responses be the

1 same?

2 A Yes, they would.

3 Q And as part of your testimony you are --
4 you are sponsoring a number of exhibits that have
5 been previously filed in this proceeding; is that
6 correct?

7 A Yes.

8 Q Do you have any corrections, additions,
9 or deletions to make to any of your material?

10 A (No audible response.)

11 Q Would you please, very briefly,
12 summarize the -- your cultural testimony?

13 A We -- in response to the various state
14 and federal historic preservation cultural
15 resource regulations, we conducted a record search
16 and archival review at the California Historic
17 Resource Information System, San Bernardino County
18 Museum office. We identified all the known
19 historic and prehistoric architectural resources
20 in the project area, adjoining all the project
21 components, and additionally contacted the Native
22 American Heritage Commission to have them take a
23 look at their sacred lands files and identify
24 Native American entities in the project vicinity.
25 We conducted intensive field surveys of

1 the -- all of the project components, the plant
2 site, all the various gas and pipelines, the water
3 wells, the transmission line corridors. We
4 consulted with the Bureau of Land Management on
5 their -- on lands under their jurisdiction. We
6 conducted limited testing at two archeological
7 sites to determine National Register eligibility.

8 And finally, we prepared numerous
9 technical reports in the technical section of the
10 AFC.

11 Q Thank you. Do you have anything else to
12 add?

13 A No.

14 MR. THOMPSON: Thank you. Mr. Self is
15 tendered for cross examination.

16 HEARING OFFICER VALKOSKY: Ms. Holmes.

17 MS. HOLMES: No questions.

18 HEARING OFFICER VALKOSKY: Ms. Reynolds.

19 MS. REYNOLDS: No questions.

20 HEARING OFFICER VALKOSKY: Mr. Ledford.

21 MR. LEDFORD: No questions.

22 HEARING OFFICER VALKOSKY: Mr. Self,
23 what is the status of the Federal EIS review for
24 the project? Are you prepared to answer that?

25 THE WITNESS: I'm not really. I'd maybe

1 posed that question back to the panel. I -- we
2 prepared the technical section on the Cultural
3 Resources. I know where that section's roughly
4 at, but the overall EIS, that would be better
5 addressed by someone else in charge of the EIS.

6 HEARING OFFICER VALKOSKY: Can you
7 explain the coordination that this project has
8 undergone between the state and the federal review
9 processes?

10 THE WITNESS: I could explain from the
11 perspective of Cultural Resources.

12 HEARING OFFICER VALKOSKY: That's fine.

13 THE WITNESS: There -- the gas pipeline
14 involvement, of course, triggered Bureau of Land
15 Management interaction on the project, and -- and
16 we subsequently, as part of the Cultural Resources
17 aspects, went to the Bureau of Land Management in
18 Barstow, obtained the necessary permits to conduct
19 surveys on their land, and in consultation with
20 the BLM conducted those surveys and then
21 identified Cultural Resource properties along the
22 32 mile gas pipeline, and in part of that -- as
23 part of that consultation described to them our
24 recommendations in terms of their significance,
25 and went through a process with the BLM to define

1 which sites were significant and which sites
2 weren't, and have come to agreement with the BLM
3 on -- on those sites in the gas pipeline area.

4 HEARING OFFICER VALKOSKY: In terms --
5 have you been involved in the development of
6 conditions both at the state level and at the
7 federal level concerning Cultural Resources?

8 THE WITNESS: Well, the -- the AFC, of
9 course, was prepared in response to the CEQA
10 requirements, and in that respect we did address
11 the state requirements. That was before there was
12 any known federal involvement. And the AFC was
13 focused primarily on satisfying California
14 Environmental Quality Act Section 15064.5, I
15 believe it is. And so in that respect we did deal
16 with the state -- state's responsibility in terms
17 of Cultural Resources, yes.

18 HEARING OFFICER VALKOSKY: And are there
19 any significant differences between the state
20 responsibility and the federal responsibility?

21 THE WITNESS: There are some. In terms
22 of site, how a site is defined as significant, the
23 changes a few years back brought the federal and
24 the state laws more in line with one another. But
25 there's what's referred to as the California

1 Register of Historic Resources that under CEQA
2 sites are evaluated against eligibility to that
3 Register. And in federal projects sites are
4 evaluated under criteria contained in 36 CFR that
5 pertain particularly to the National Register of
6 Historic Resources. They're very similar, but
7 they are worded slightly differently.

8 HEARING OFFICER VALKOSKY: Are you
9 familiar with the conditions of certification
10 which staff has proposed be imposed upon this
11 project, and in your view is there any significant
12 difference between those conditions and the ones
13 which will likely be imposed by the federal
14 authorities?

15 THE WITNESS: No. No, there aren't --
16 really the only difference might be the -- we
17 prepared a federal document called the Historic
18 Properties Treatment Plan, to address some sites
19 along the gas pipeline route which weren't
20 necessarily part of the staff assessment because,
21 again, this was -- it resulted as part of the
22 Bureau of Land Management consultation.

23 And I know the Bureau of Land Management
24 -- at least it's my understanding that the Bureau
25 of Land Management and the CEC staff individual,

1 Kathy Matthews, is involved -- consulted on the --
2 the various issues associated with Cultural
3 Resources throughout the project. And I believe
4 there's a level of comfort between all the parties
5 involved that everybody's needs are being met in
6 terms of the regulatory requirements.

7 HEARING OFFICER VALKOSKY: Okay, thank
8 you.

9 Redirect, Mr. Thompson?

10 MR. THOMPSON: No, we have nothing.
11 Thank you.

12 HEARING OFFICER VALKOSKY: Any further
13 questions from anyone for Mr. Self on the area of
14 Cultural Resources?

15 Thank you, Mr. Self.

16 Do you have any documents to move in at
17 this time?

18 MR. THOMPSON: I'm sorry. Thank you
19 very much for reminding me.

20 Applicant would like to move the
21 following exhibits into the record: 24, 29, 39,
22 48, 62, 64, 75, 77, 78, and 79.

23 HEARING OFFICER VALKOSKY: Is there
24 objection?

25 Those will be entered.

1 (Thereupon, Exhibits 24, 29, 39, 48,
2 62, 64, 75, 77, 78, and 79 were
3 admitted into evidence.)

4 MR. THOMPSON: Thank you.

5 HEARING OFFICER VALKOSKY: Ms. Holmes.

6 MS. HOLMES: Thank you. Staff's witness
7 for Cultural Resources is Kathy Matthews.

8 (Thereupon, Kathy Matthews was, by the
9 Reporter, sworn to tell the truth and
10 nothing but the truth.)

11 TESTIMONY OF
12 KATHY MATTHEWS

13 called as a witness on behalf of Staff, having
14 been first duly sworn, was examined and testified
15 as follows:

16 DIRECT EXAMINATION

17 BY MS. HOLMES:

18 Q Ms. Matthews, do you have with you today
19 revised testimony on Cultural Resources that was
20 filed on the 9th of April, it's been identified as
21 Exhibit 85?

22 A Yes, I do.

23 Q And did you also prepare a statement of
24 qualifications that was filed with the staff
25 assessment which has been identified as Exhibit

1 82?

2 A Yes.

3 Q Were these documents prepared by you or
4 under your direction?

5 A I prepared them.

6 Q Do you have any changes or corrections
7 to them?

8 A Yes, I do have a couple of corrections
9 to make. In reviewing it prior to the hearing
10 today I noticed that the sequence for the Cultural
11 Resource Conditions Number 2 and Number 3, Number
12 2 begins on page 294.

13 HEARING OFFICER VALKOSKY: Okay, if I
14 could just -- it's a minor point of clarification.
15 I understand, Ms. Holmes can correct me if I'm
16 wrong, that the document we've identified as
17 Exhibit 85, which is the April 9th, 1999 Cultural
18 Resources testimony, that replaces in entirety the
19 earlier Cultural Resources --

20 MS. HOLMES: Correct. We're not
21 offering the Cultural Resources section from the
22 staff assessment into evidence.

23 HEARING OFFICER VALKOSKY: Thank you.

24 I'm sorry, Ms. Matthews. Continue.

25 THE WITNESS: On page 294, in the

1 verification for Cultural Number 2, it currently
2 says, at least 90 days prior to the start of
3 construction. I would like to change that to
4 read, 115 days prior to the start of construction.

5 And on page 295, under Cultural 3, the
6 verification currently says, at least 120 days
7 prior to the start of construction. I would like
8 to change that to 110 days prior to the start.

9 And perhaps by way of discussion or
10 explanation, in a previous hearing on another
11 project a question came up as to why all these
12 different days for the various conditions. And in
13 response to that, it's intended to be a phased
14 sequence. Cultural Resource Condition Number 1
15 requires the project owner to name the designated
16 Culture Resource Specialist. And that is on Day
17 120 prior to the start of construction.

18 Cultural Resources 2 asks the project
19 owner to, now that they've finally completed
20 project design, determined center lines and right-
21 of-way boundaries for linear facilities, to put
22 the stakes in prior to construction.

23 Cultural 3 says -- asks the project
24 owner to provide a map for the designated
25 specialist and the compliance project manager at

1 the Commission, indicating what these final
2 designs and final center lines are.

3 And Cultural 4 then asks that the
4 specialist conduct any necessary surveys based on
5 these final designs.

6 It's a -- it's a cascade of days and
7 times in which things happen. You can't -- the
8 specialist can't really survey the final center
9 lines until they know what they are. And so the
10 whole set of conditions are intended to be a -- a
11 cascade sequence.

12 HEARING OFFICER VALKOSKY: Thank you.

13 BY MS. HOLMES:

14 Q Do you have any additional changes?

15 A No, that was the only thing that came to
16 mind.

17 Q With those changes, are the facts
18 contained in your testimony true and correct to
19 the best of your knowledge?

20 A Yes.

21 Q And do the opinions contained in your
22 testimony represent your best professional
23 judgment?

24 A Yes.

25 MS. HOLMES: Thank you. I'd like to ask

1 one direct cross -- excuse me, one direct question
2 of Ms. Matthews that has to do with the hearing
3 order that was docketed September 2nd.

4 BY MS. HOLMES:

5 Q Are you familiar with that, Ms.
6 Matthews?

7 A I have it here somewhere, but if you
8 have --

9 Q There was a -- there was a topic that
10 was mentioned by the Committee with respect to
11 Paleontologic Resources, which I believe the
12 Committee also -- I believe the Committee also has
13 a similar question with respect to Cultural
14 Resources. The Committee was seeking further
15 clarification concerning the Commission's role
16 with BLM and oversight, and whether mitigation
17 proposed by staff will be consistent with that of
18 BLM.

19 Could you address that question with
20 respect to Cultural Resources, please?

21 A Sure. We have been in -- I have been in
22 touch off and on throughout the preparation of the
23 staff analysis with the archeologist who is on
24 staff at the Barstow office of the Bureau of Land
25 Management. And when we prepared our initial, our

1 draft staff analysis, she reviewed copies and
2 offered comments on some of the conditions of
3 certification that were proposed in the draft. I
4 made revisions, and we carried them forward into
5 workshops. We made additional revisions at the
6 next round of review, and I have kept in touch
7 with her off and on.

8 When the 32 mile gas pipeline proposal
9 came in, she indicated initially that BLM would
10 have an interest just in that pipeline and not the
11 remainder of the project. Subsequently, I believe
12 the federal agencies are now concerned with the
13 entire project as a whole, including all linear
14 facilities, and the -- the preparation of the
15 environmental impact statement for the federal
16 agencies has been in progress since I think last
17 spring. And I have not been personally directly
18 involved in that, but I have kept in touch with
19 the archeologist in the Barstow office. And when
20 I saw the hearing order with the questions on
21 paleo, I did attempt to -- to initiate contact
22 with the archeologist, because she is doing both,
23 and she was out of the office on the forest fire,
24 and remains still involved in post-fire
25 assessments and recovery.

1 But I do have word that she reviewed the
2 conditions that are in the April 9th revised
3 testimony that I prepared, and she is fine with
4 them. And I also understand that the conditions
5 that we have written in the testimony have been
6 incorporated into the mitigation measures being
7 proposed and set forth in the EIS being prepared
8 for the federal agencies.

9 My understanding is the draft EIS is due
10 out perhaps next month, maybe in November. And I
11 think Amy is probably the best person to provide
12 information on that EIS process. My understanding
13 is that she's the project manager, and the
14 environmental information is being -- she's
15 working on that, and it's going into the EIS.

16 HEARING OFFICER VALKOSKY: I would just
17 like to clarify, since Ms. Holmes mentioned the
18 hearing order, the concern of the Committee was
19 the potential -- well, two things, for any
20 conflict between the conditions both in cultural
21 and in paleo, between the federal and state
22 conditions. And, two, I believe it came up in
23 paleo -- well, we'll deal with it at that time.

24 But is it correct to say, then, that
25 there -- there is no expectation at this point

1 that there would be a conflict between the federal
2 and state conditions?

3 THE WITNESS: That's my understanding,
4 yes.

5 HEARING OFFICER VALKOSKY: Okay. Thank
6 you.

7 MS. HOLMES: Ms. Matthews is available
8 for cross examination.

9 HEARING OFFICER VALKOSKY: Mr. Thompson.

10 MR. THOMPSON: No questions, thank you.

11 HEARING OFFICER VALKOSKY: Ms. Reynolds.

12 MS. REYNOLDS: No questions.

13 HEARING OFFICER VALKOSKY: Mr. Ledford.

14 MR. LEDFORD: Nothing.

15 HEARING OFFICER VALKOSKY: One final
16 question, Ms. Matthews. On page 282 of -- in your
17 testimony in Exhibit 85, the last sentence of the
18 facility closure section, you indicate that prior
19 subsurface disturbance or pipeline removal, an
20 archeological resource treatment plan must be
21 completed.

22 Do we need a separate condition of
23 certification specifying that, or is it your
24 opinion that that would be included within the
25 general compliance plan conditions?

1 THE WITNESS: The way that I would view
2 it, based on how we have handled the closure plans
3 that we have dealt with recently, is that the
4 Applicant, or the project owner, is required to
5 prepare like an application or some sort of
6 documentation for the proposal to close. And in
7 that they would include mitigation measures, and
8 the conditions of certification that are placed on
9 the project at this point prior to the start of
10 construction are extended throughout the lifetime
11 of the project, and amended or modified as needed
12 if the project itself is amended or changed during
13 the lifetime.

14 So the conditions which we're proposing
15 that you adopt would be in place at whatever time
16 this facility were closed, and since the BLM was
17 involved, they have something like seven miles of
18 the 32 mile pipeline that is BLM land, I believe
19 that at that time they also would want to have
20 some -- like a parallel process, as we have done
21 here, to do with the closure. If that pipeline
22 were to be removed or somehow capped off and left
23 in place, they would want a plan, and we would
24 make sure that it was parallel to our own.

25 HEARING OFFICER VALKOSKY: Thank you.

1 Mr. Thompson, does that comport with
2 Applicant's understanding?

3 MR. THOMPSON: Pardon us while we stew
4 here a minute.

5 (Inaudible asides.)

6 MR. THOMPSON: Grudgingly, yes, it does.
7 (Laughter.)

8 HEARING OFFICER VALKOSKY: Thank you.
9 Any redirect, Ms. Holmes?

10 MS. HOLMES: No.

11 HEARING OFFICER VALKOSKY: Is there
12 anything else for Ms. Matthews on the topic of
13 Cultural Resources? Thank you.

14 The next topic will be --

15 MS. HOLMES: I'd move Ms. Matthews'
16 testimony on Cultural Resources into the record at
17 this time. Thank you.

18 HEARING OFFICER VALKOSKY: I'm sorry.
19 Yes. Is there any objection?

20 Hearing none, it will be admitted.

21 (Thereupon, Staff's Declarations on
22 Cultural Resources contained in
23 Exhibits 82 and 85 were admitted
24 into evidence.)

25 MS. HOLMES: Thank you.

1 HEARING OFFICER VALKOSKY: Thank you.

2 Okay. Mr. Thompson, Paleontologic
3 Resources.

4 MR. THOMPSON: We have -- we had
5 anticipated that Mr. Raschke's testimony would
6 come in by Declaration, and did not know until
7 this morning that he would be called. But I would
8 -- let me make the suggestion that we offer Mr.
9 Raschke by Declaration, but ask Amy Cuellar to
10 take the stand again with regard to some of the
11 issues we have just been discussing, such as the
12 federal coordination.

13 The questions that I heard I think she
14 can respond to, as well as Applicant's position on
15 staff's suggested new language.

16 HEARING OFFICER VALKOSKY: Is there any
17 party who wishes to -- who desires, excuse me, to
18 cross examine Mr. Raschke personally?

19 MS. HOLMES: Staff does not.

20 MS. REYNOLDS: CURE does not.

21 HEARING OFFICER VALKOSKY: No one?

22 Okay, that'll be fine. If you would
23 call Ms. Cuellar.

24 MR. THOMPSON: If it's okay with staff,
25 Ms. Matthews can -- can do Paleontology. That way

1 we can react to the new language for both of those
2 areas, if there is new language for both of those.
3 It's your -- it's your call, obviously.

4 HEARING OFFICER VALKOSKY: Okay. Well,
5 since Ms. Matthews is here.

6 TESTIMONY OF

7 KATHY MATTHEWS

8 called as a witness on behalf of Staff, having
9 been previously duly sworn, was examined and
10 testified further as follows:

11 DIRECT EXAMINATION

12 BY MS. HOLMES:

13 Q Ms. Matthews, do you have with you a
14 copy of the Paleontological Resources section of
15 the staff exhibit which has been identified as
16 Exhibit 82?

17 A Yes, I do.

18 Q And Errata which were filed the 19th of
19 March, which has been identified as Exhibit 83?

20 A Yes.

21 Q Was that testimony prepared by you or
22 under your direction?

23 A I prepared it.

24 Q Do you have any changes or corrections
25 to your testimony?

1 A None that I found. The sequence of
2 dates for the compliance, or conditions seem to be
3 in sequence.

4 Q So are the facts contained in that
5 testimony true and correct to the best of your
6 knowledge?

7 A Yes.

8 Q And the opinions contained in that
9 testimony represent your best professional
10 judgment?

11 A Yes.

12 MS. HOLMES: Ms. Matthews is available
13 for cross on Paleo.

14 HEARING OFFICER VALKOSKY: Mr. Thompson.

15 MR. THOMPSON: No questions, thank you.

16 HEARING OFFICER VALKOSKY: Ms. Reynolds.

17 MS. REYNOLDS: No questions.

18 HEARING OFFICER VALKOSKY: Mr. Ledford.

19 MR. LEDFORD: No questions.

20 HEARING OFFICER VALKOSKY: Just -- just
21 have one, Ms. Matthews. Your testimony specifies
22 certain mitigation measures required by San
23 Bernardino County and the City of Victorville.
24 Are these incorporated into the conditions of
25 certification which you propose?

1 THE WITNESS: Yes, they are.

2 HEARING OFFICER VALKOSKY: And is it
3 fair to conclude that the coordination issues
4 which we discussed in the area of Cultural
5 Resources are equally applicable to this area?

6 THE WITNESS: Yes. The archeologist at
7 the Barstow office of BLM also was handling
8 Paleontologic Resources, and she indicated that
9 she was -- she concurred with the conditions that
10 were placed on paleo.

11 HEARING OFFICER VALKOSKY: Okay. And I
12 take it that that really is -- is the portion of
13 your testimony which concludes the -- the loop
14 that you open on page 401, under the -- the first
15 paragraph, second -- third sentence, says the
16 Commission would be included in their oversight
17 but the details of how this process would take
18 place are not yet available. So that loop has now
19 been closed with your coordination with the
20 federal authorities?

21 THE WITNESS: Yes.

22 HEARING OFFICER VALKOSKY: Okay.

23 THE WITNESS: I think the details still
24 remain open, but we are on track, and working
25 together.

1 HEARING OFFICER VALKOSKY: Okay. Thank
2 you.

3 MS. HOLMES, anything else?

4 MS. HOLMES: No.

5 HEARING OFFICER VALKOSKY: Any other
6 questions for Ms. Matthews on the area of
7 Paleontologic Resources?

8 Thank you, Ms. Matthews.

9 MS. HOLMES: I'd most that Ms. Matthews'
10 testimony on Paleontologic Resources be entered
11 into evidence at this time.

12 HEARING OFFICER VALKOSKY: Is there
13 objection?

14 Hearing none, so ordered.

15 (Thereupon, the Staff's Declaration on
16 Paleontologic Resources contained in
17 Exhibits 82 and 83 was admitted
18 into evidence.)

19 HEARING OFFICER VALKOSKY: Mr. Thompson.

20 MR. THOMPSON: Thank you, Mr. Valkosky.
21 Applicant would like to recall Ms. Amy Cuellar in
22 the area of Paleontologic Resources, and Cultural
23 Resources to the extent her responses to certain
24 questions may overlap.

25 Ms. Cuellar, I'd remind you that you

1 were previously sworn.

2 TESTIMONY OF

3 AMY CUELLAR

4 called as a witness on behalf of Applicant, having
5 been previously duly sworn, was examined and
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. THOMPSON:

9 Q With regard to coordination with the
10 federal agencies and the EIS program, would you
11 like to offer up a brief description of where we
12 are in that coordination effort right now?

13 A Yeah. We're -- we are in the process of
14 getting very close to having a draft EIS ready to
15 go out for public comment, probably next month.
16 The -- the Fish and Wildlife Service is the lead
17 agency on the EIS process, and it being their
18 documents. Sorry, should I back up, or -- I'm
19 sorry.

20 The BLM is a cooperating agency in that
21 process, since they have had the opportunity to
22 review the administrative draft of that EIS and
23 have provided comments on that document.
24 Primarily their comments have been on cultural and
25 paleontological resources.

1 Q Do you have a time estimate for when
2 that document would go out for comment?

3 A I'm hoping November.

4 Q November. Thank you.

5 The second issue I would like to raise
6 with you is the new language that was offered by
7 Ms. Matthews in the area of Cultural Resources.
8 Did you have a chance to review the sequencing
9 times that you talked about with her, and do you
10 believe that those represent acceptable changes to
11 the Applicant and would you recommend to the High
12 Desert Power Project that they accept those?

13 A (No audible response.)

14 MR. THOMPSON: Thank you very much. Ms.
15 Cuellar is tendered for cross examination.

16 HEARING OFFICER VALKOSKY: Ms. Holmes.

17 MS. HOLMES: No questions.

18 HEARING OFFICER VALKOSKY: Ms. Reynolds.

19 MS. REYNOLDS: No questions.

20 HEARING OFFICER VALKOSKY: Mr. Ledford.

21 MR. LEDFORD: No questions.

22 HEARING OFFICER VALKOSKY: Any questions
23 from anyone here present for Ms. Cuellar or on the
24 topics of Cultural and Paleontologic Resources?

25 There are none. Thank you.

1 THE WITNESS: You're welcome.

2 HEARING OFFICER VALKOSKY: Do you have
3 anything additional to move into the record, Mr.
4 Thompson?

5 MR. THOMPSON: I don't believe so.
6 There are -- there was an exhibit that was
7 contained in Mr. Raschke's testimony, but it would
8 be covered by the declaration.

9 HEARING OFFICER VALKOSKY: Okay. Thank
10 you.

11 The next topic, Hazardous Materials
12 Handling.

13 MS. HOLMES: Mr. Valkosky, If I could,
14 for a moment.

15 HEARING OFFICER VALKOSKY: I'm sorry.

16 MS. HOLMES: We've had a witness from
17 the ISO here all day long who would like to
18 testify. I think it might be --

19 HEARING OFFICER VALKOSKY: That's fine.
20 Is there any objection to that? We'll take
21 Transmission System Engineering at this point.

22 MS. HOLMES: I was planning to have both
23 staff's transmission system engineering and the
24 ISO witness testify at the same time, if that's --

25 HEARING OFFICER VALKOSKY: As -- as a

1 panel?

2 MS. HOLMES: Yeah.

3 HEARING OFFICER VALKOSKY: That's fine.

4 MS. HOLMES: Thank you.

5 HEARING OFFICER VALKOSKY: Would you
6 like for Applicant to put on Mr. Larsen on
7 Transmission System Engineering first?

8 MS. HOLMES: That's fine. I was just
9 asking that those two subjects be handled next,
10 not necessarily the order of witnesses.

11 HEARING OFFICER VALKOSKY: Right. Okay.
12 Mr. Thompson.

13 MR. THOMPSON: Applicant would like to
14 call Mr. David Larsen. Mr. Larsen has not been
15 sworn.

16 (Thereupon, David Larsen was, by the
17 Reporter, sworn to tell the truth and
18 nothing but the truth.)

19 TESTIMONY OF

20 DAVID LARSEN

21 called as a witness on behalf of Applicant, having
22 been first duly sworn, was examined and testified
23 as follows:

24 ///

25 ///

1 DIRECT EXAMINATION

2 BY MR. THOMPSON:

3 Q Mr. Larsen, would you state your name
4 for the record, please?

5 A My name is David Larsen.

6 Q And are you the same David Larsen that
7 submitted prepared testimony which is now part of
8 Exhibit 95 to this proceeding?

9 A Yes, I am.

10 Q And if I asked you the questions today
11 contained in that exhibit, would you answer them
12 the same?

13 A Yes.

14 Q And as part of your testimony you are
15 testifying to a number of exhibits, responses to
16 data requests, that are all contained in your
17 prepared testimony?

18 A That is true, yes.

19 Q Do you have any corrections, additions,
20 or deletions to make to that material?

21 A No, I don't.

22 Q Thank you very much. Would you give us
23 a very brief outline of your material, please?

24 A Yes. RMI was originally hired by the
25 High Desert Project back in the '97 timeframe to,

1 at least from my perspective, analyze different
2 approaches that could be used in interconnecting
3 the proposed power project with the existing
4 transmission system in the area. And the basic
5 activities that we undertook as part of that was
6 -- was the identification of the potential
7 interconnection points for the project,
8 identifying potential line routes from the -- from
9 the plant site to the interconnection point,
10 undertaking some preliminary economic analysis of
11 -- of the different line routes, potential
12 different transmission line configurations for the
13 project, performed a number of power flow studies
14 to assess what the impacts the injection of the
15 700 megawatts of power would have on the
16 transmission system in the area.

17 We also did -- part of the theme of the
18 power flow studies we also looked at downstream
19 impacts between say Lug, Victorville area --
20 Lugo/Victorville area, and the Los Angeles Basin.
21 And also, the final thing was to look at some
22 impacts of -- or potential impacts of EMF at the
23 edge of the transmission line rights-of-way.

24 The conclusion we came to as a result of
25 that work was that from a cost effectiveness

1 perspective and system impacts perspective, that
2 the interconnection with the Victor Substation was
3 the -- appeared to be the best way to go, and that
4 was our recommendation to the project. Subsequent
5 to that we worked with the Southern California
6 Edison and the ISO on the interconnection study,
7 and mostly just provided a little bit of input to
8 Southern California Edison who is in fact going to
9 be responsible for, as I understand it, for
10 building the interconnection line and substation,
11 you know, on some of the work that we'd done in
12 the past as far as routing issues and so forth
13 were concerned.

14 Q And I note, Mr. Larsen, that a number of
15 your exhibits are draft interconnection studies,
16 followed by finally Exhibit 49, which is the final
17 interconnection study.

18 A That's right, yes.

19 Q And you have read and reviewed Exhibit
20 49?

21 A Yes.

22 Q And do you believe that the results and
23 recommendations contained in Exhibit 49 are
24 acceptable?

25 A Yes, I do.

1 MR. THOMPSON: Thank you very much. Mr.
2 Larsen is tendered for cross examination.

3 HEARING OFFICER VALKOSKY: Ms. Holmes.

4 MS. HOLMES: No questions.

5 HEARING OFFICER VALKOSKY: Ms. Reynolds.

6 MS. REYNOLDS: No questions.

7 HEARING OFFICER VALKOSKY: Mr. Ledford.

8 MR. LEDFORD: No questions.

9 HEARING OFFICER VALKOSKY: Mr. Larsen,
10 are the -- from the transmission system
11 engineering perspective, are the facilities as
12 specified in the interconnection adequate for both
13 the configurations proposed for the project?

14 THE WITNESS: Yes. Yes.

15 HEARING OFFICER VALKOSKY: Is there any
16 significant difference from transmission regarding
17 one configuration over the other?

18 THE WITNESS: (No audible response.)

19 HEARING OFFICER VALKOSKY: Okay. Thank
20 you.

21 Are there any other questions for Mr.
22 Larsen on this area?

23 Thank you, sir.

24 MR. THOMPSON: Thank you, Mr. Valkosky.
25 Applicant would move the following exhibits into

1 the record, 9, 21, 22, 23, 26, 36, 47, and 49.

2 HEARING OFFICER VALKOSKY: Is there
3 objection to receiving those into evidence?

4 Hearing none, they are received.
5 (Thereupon, Exhibits 9, 21, 22, 23, 26,
6 36, 27, and 49 were admitted into
7 evidence.)

8 HEARING OFFICER VALKOSKY: Ms. Holmes.

9 MS. HOLMES: Thank you. Staff will call
10 Mr. Robert Sparks of the ISO, and staff's witness
11 on Transmission System Engineering is Al McCuen.

12 (Thereupon, Robert Sparks and Al
13 McCuen were, by the Reporter, sworn
14 to tell the truth and nothing but
15 the truth.)

16 MS. HOLMES: Mr. McCuen, I'll start with
17 you.

18 HEARING OFFICER VALKOSKY: Ms. Holmes,
19 we can have him sit up here, too. I think it's
20 more appropriate, since you're a panel.

21 MR. MCCUEN: The problem is hearing, of
22 course. But actually for you it's better.

23 MS. HOLMES: Thank you.

24 ///

25 ///

1 TESTIMONY OF

2 AL McCUEN

3 called as a witness on behalf of Staff, having
4 first been duly sworn, was examined and testified
5 as follows:

6 DIRECT EXAMINATION

7 BY MS. HOLMES:

8 Q Mr. McCuen, do you have in front of you
9 copy of the staff assessment which has been
10 identified as Exhibit 82?

11 A I do.

12 Q And Errata which were filed March 19th,
13 which has been identified as Exhibit 83?

14 A I do.

15 Q And were the statement of qualifications
16 filed in the staff assessment, Exhibit 82?

17 A They were. Yes.

18 Q Thank you. Were those documents
19 prepared by you or under your direction?

20 A By me.

21 Q Do you have any changes or corrections
22 to those documents?

23 A No.

24 Q Are the facts contained in those
25 documents true and correct to the best of your

1 knowledge?

2 A They are.

3 Q And do the opinions contained in those
4 documents represent your best professional
5 judgment?

6 A They do.

7 MS. HOLMES: Thank you.

8 TESTIMONY OF

9 ROBERT SPARKS

10 called as a witness on behalf of Staff, having
11 been first duly sworn, was examined and testified
12 as follows:

13 DIRECT EXAMINATION

14 BY MS. HOLMES:

15 Q Mr. Sparks --

16 A Yes.

17 Q -- good afternoon. Do you have a
18 document in front of you entitled Attached
19 Testimony from the California Independent System
20 Operator?

21 A Yes.

22 Q It's been identified as Exhibit 88.

23 A Dated April 16th, '99. Yes.

24 Q Thank you. And it contains a statement
25 of your qualifications?

1 A Yes, at the back.

2 Q Was that testimony prepared by you or
3 under your direction?

4 A Yes, I prepared it.

5 Q Do you have any corrections or changes
6 to that testimony?

7 A No.

8 Q Are the facts contained in the testimony
9 true and correct, and do the opinions contained in
10 that testimony represent your best professional
11 judgment?

12 A Yes, they do.

13 Q Finally, do you also have in front of
14 you a letter from Tony Valarde -- excuse me, to
15 Tony Valarde from the California ISO that's been
16 identified as Exhibit 108?

17 A Yes, dated October 8th, 1998.

18 Q Could you please briefly summarize what
19 that letter is?

20 A This letter was after reviewing the
21 interconnection study prepared by Southern
22 California Edison for the High Desert Project, the
23 California ISO reviewed that interconnection study
24 and wrote this letter, essentially approving the
25 study and the conclusions and recommendations in

1 the study.

2 Q And do the conclusions in that letter
3 provide the basis for your testimony in Exhibit
4 88?

5 A Yes, they do.

6 MS. HOLMES: Thank you. Both witnesses
7 are available for cross examination.

8 HEARING OFFICER VALKOSKY: Mr. Thompson.

9 MR. THOMPSON: No questions. I want to
10 thank the ISO for being around all day.

11 MS. REYNOLDS: No questions.

12 MR. LEDFORD: No questions.

13 HEARING OFFICER VALKOSKY: I think it's
14 probably more appropriate to Mr. McCuen. I recall
15 as late as April of this year that the Los Angeles
16 Department of Water and Power had certain concerns
17 regarding routing of the project's tie line near
18 their lines. Do you recall that?

19 MR. McCUEN: I recall that. Two
20 letters, at least, and I talked to them
21 extensively.

22 HEARING OFFICER VALKOSKY: Okay. Have
23 those concerns been addressed --

24 MR. McCUEN: Yes.

25 HEARING OFFICER VALKOSKY: -- in the

1 conditions?

2 MR. McCUEN: Yes, they indicated to me
3 that they were -- they were satisfied with my
4 condition of certification that deals with those
5 crossings.

6 HEARING OFFICER VALKOSKY: And that
7 condition is TSE-1, I assume, or --

8 MR. McCUEN: That is TSE-1G, as in golf.

9 HEARING OFFICER VALKOSKY: Okay. And
10 you've had no indication, or, I'm sorry, every
11 indication you have had, is that -- they are
12 satisfied with.

13 MR. McCUEN: That's correct.

14 HEARING OFFICER VALKOSKY: Okay. Thank
15 --

16 MR. McCUEN: We specifically discussed
17 it, initially they were not aware that that
18 condition was in TSE. They were looking in
19 Transmission Safety and Nuisance for something,
20 and it wasn't there.

21 HEARING OFFICER VALKOSKY: Okay, thank
22 you. And referring to your testimony, page 469,
23 under Abandonment, the last sentence. You
24 indicate a condition of certification has been
25 included to assure conformance in the event of

1 closure of the project.

2 Could you indicate to me which condition
3 that is?

4 MR. McCUEN: Yes, that's the one that
5 covers General Order 95.

6 HEARING OFFICER VALKOSKY: Okay. So
7 that would be TSE-1F, I take it.

8 MR. McCUEN: Yes.

9 HEARING OFFICER VALKOSKY: Okay. So the
10 -- so that those abandonment requirements are
11 specifically required under the --

12 MR. McCUEN: Yes.

13 HEARING OFFICER VALKOSKY: -- PUC.

14 Thank you.

15 Mr. Sparks, could you educate, at least
16 me, a bit more on the formulation of remedial
17 action schemes, specifically what they are, how
18 they're developed, when they're implemented, and
19 any effects they have upon this project and the
20 reliability of the system in general?

21 MR. SPARKS: Yes. Remedial action
22 schemes, specifically in the case of High Desert,
23 are shutting the automatic shutdown of the
24 generation in the event of a transmission line
25 outage or contingency. The generation can be

1 fully accommodated when all the transmission
2 facilities are in service, but to the extent one
3 fails and a transmission line is taken out of
4 service because it fails, the transmission system
5 can no longer accommodate all the generation, and
6 so a communication signal via phone lines or
7 microwave, or whatever, is sent from the
8 substation for the transmission line to shut down
9 the generation automatically, or called tripping
10 the generation.

11 There are other types of remedial action
12 schemes, but for this specific instance it's just
13 sort of a -- they also call them the special
14 protective schemes.

15 HEARING OFFICER VALKOSKY: So that the
16 addition of the High Desert Project to the system
17 would require the implementation of these remedial
18 action schemes under certain circumstances; is
19 that correct?

20 MR. SPARKS: Yes. In the Cramer
21 Substation, or the north of Lugo system that High
22 Desert will be connecting to -- excuse me -- there
23 is an existing remedial action scheme to trip --
24 to shut down some of the generation out there.
25 Must be all the smoke from the fires, the forest

1 fires.

2 (Laughter.)

3 MR. SPARKS: That scheme would be
4 expanded with the addition of the High Desert
5 Project. Three contingencies, or three
6 transmission outages would include the addition of
7 the High Desert generation, and then two new
8 contingencies would also be added to this remedial
9 action scheme for a total of five contingencies
10 which would trip the High Desert generation.

11 HEARING OFFICER VALKOSKY: And the
12 formulation of these remedial action schemes, I
13 take it, are part of the Cal ISO's typical
14 procedures occasioned by the addition of any
15 generation to the system?

16 MR. SPARKS: Yes. Yes. The planned
17 tripping of generation for transmission
18 contingencies is fully within the applicable
19 criteria.

20 HEARING OFFICER VALKOSKY: Is there any
21 difference in terms of transmission system impacts
22 between the addition of generation from the 670
23 megawatt -- 678 megawatt configuration or the 720
24 megawatt configuration?

25 MR. SPARKS: In terms of the impacts on

1 the transmission system, the most stressed case
2 would be the larger amount of generation. The
3 interconnection study I think was actually done at
4 830 megawatts, which is the most stressed
5 condition, and to the extent that the generation
6 project ends up being 720 or 678, all of the
7 reliability impacts and congestion impacts would
8 -- would be actually less than what was actually
9 studied.

10 HEARING OFFICER VALKOSKY: Okay. And I
11 take it the study indicated that even at the 830
12 megawatt number the system could handle that level
13 of generation from a reliability perspective?

14 MR. SPARKS: Yes, it did.

15 HEARING OFFICER VALKOSKY: Okay, thank
16 you.

17 Are there any further questions for
18 either Mr. Sparks or Mr. McCuen?

19 Okay. Thank you, gentlemen.

20 MS. HOLMES: I'd move Exhibits 88 and
21 108 be entered into the record, along with staff's
22 testimony on Transmission System Engineering.

23 HEARING OFFICER VALKOSKY: Is there
24 objection?

25 Hearing no objection, so ordered.

1 (Thereupon, Exhibit 108 and the Staff's
2 Declarations on Transmission System
3 Engineering contained in Exhibits 82,
4 83, and 88, were admitted into
5 evidence.)

6 HEARING OFFICER VALKOSKY: The topic of
7 Hazardous Materials Management.

8 MR. THOMPSON: Thank you. Applicant
9 would like to recall Mr. John Mullen, please. Mr.
10 Mullen has been previously sworn, and has filed a
11 declaration on this hearing.

12 TESTIMONY OF

13 JOHN MULLEN

14 called as a witness on behalf of Applicant, having
15 been previously duly sworn, was examined and
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. THOMPSON:

19 Q Mr. Mullen, recognizing that the AFC
20 combined waste management, hazardous materials,
21 and worker safety and fire protection, have you
22 reviewed the sections of hazardous materials
23 management and adopt them as your own?

24 A Yes, I have.

25 Q And you are the same John Mullen that

1 testified earlier today and whose exhibit is
2 contained in material contained in Exhibit 95 of
3 this proceeding?

4 A That is correct.

5 Q Do you have any corrections, changes, or
6 deletions to make to your hazardous materials
7 management material?

8 A No, I don't.

9 Q Do you have any overview or summary to
10 offer the Committee in this area?

11 A Yes, I can -- I can briefly give you the
12 rundown on what the hazardous material management
13 is about. The primary problem that we have at the
14 High Desert Power Project is the use of some
15 acutely hazardous materials. Only one of them is
16 being used in sufficient quantity to exceed the
17 threshold of quantities as defined for regulated
18 substances under risk management, federal risk
19 management programs, and also the California
20 Accidental Release Program, and that's the aqueous
21 ammonia.

22 The other materials that are out there
23 are not in sufficient, such as natural gas, are
24 not in sufficient quantities in the process that
25 they would trigger off the threshold quantities.

1 So we viewed the storage and use of the
2 aqueous ammonia, and -- and considered various
3 types of release scenarios that might cause this
4 material to be released and cause exposure beyond
5 the property lines, and we also reviewed a number
6 of mitigation measures to reduce the impacts in
7 case there was an accidental release.

8 Q And what are your conclusions with
9 regard to the release scenarios?

10 A There -- the two release scenarios that
11 we considered most probably would be a delivery
12 truck accident inside the facility that would
13 release the entire contents of the truck, which is
14 a fairly conservative assumption. And also, the
15 rupture of the -- of the main tank, which might
16 release the entire contents of the tank. And we,
17 for the various types of mitigations that have
18 been introduced, we feel that the -- the
19 combination or the probabilities of these
20 accidents taking place and the risks are within
21 acceptable limits, as far as risk management is
22 concerned.

23 MR. THOMPSON: All right. Thank you
24 very much. Mr. Mullen is tendered for cross
25 examination in the area of Hazardous Materials

1 Management.

2 HEARING OFFICER VALKOSKY: Ms. Holmes.

3 MS. HOLMES: No questions.

4 HEARING OFFICER VALKOSKY: Ms. Reynolds.

5 MS. REYNOLDS: No questions.

6 HEARING OFFICER VALKOSKY: Mr. Ledford.

7 CROSS EXAMINATION

8 BY MR. LEDFORD:

9 Q Out of curiosity, what is the ammonia
10 used for?

11 A The ammonia is used -- the ammonia
12 injection is used for controlling the NOx
13 emissions from the power plant combustion process.
14 So in order to cut down the -- the release of
15 oxides of nitrogen, you can inject ammonia with a
16 selective catalytic reactor to control the NOx
17 emissions, and it's -- it's a well proven
18 technique to reduce NOx emissions.

19 MR. LEDFORD: Thank you. No further
20 questions.

21 HEARING OFFICER VALKOSKY: Mr. Mullen,
22 are you familiar with the proposed joint
23 environmental impact mitigation entered between
24 Applicant and CURE, and we've identified this
25 document as Exhibit 92?

1 THE WITNESS: I'm not familiar with the
2 details of that document.

3 HEARING OFFICER VALKOSKY: Are you
4 familiar with the proposed conditions of
5 certification contained therein?

6 THE WITNESS: I'm familiar with the
7 conditions of certification that were in the CEC
8 document, about the various types of mitigation
9 measures, if that's what you're referring to. I'm
10 -- I'm not sure I understand which document you're
11 looking at right now.

12 HEARING OFFICER VALKOSKY: Well, right
13 now I'm looking at a -- there are two documents.
14 One is the -- the hazardous materials management
15 testimony submitted by staff, which has proposed
16 conditions, and then there are some -- some what
17 would be characterized as slightly different
18 conditions contained in the joint mitigation
19 proposal.

20 THE WITNESS: Okay. I'm --

21 HEARING OFFICER VALKOSKY: What I'm
22 trying to explore is --

23 THE WITNESS: -- more familiar with the
24 staff's -- the staff mitigation measures that --
25 that we've iterated on over, you know, the last

1 year. I'm not sure of any additional agreement
2 that was made between the other parties involved.

3 MS. REYNOLDS: Mr. Valkosky, we have an
4 extra copy of that if you would like to reference
5 that.

6 HEARING OFFICER VALKOSKY: That'd be
7 great. Thank you.

8 Yeah, Mr. Mullen, to make a long story
9 short, is -- CURE is proposing that we implement
10 basically the language as I understand it, and Ms.
11 Reynolds, correct me if I'm wrong, contained in
12 the joint mitigation proposal in Exhibit 92. Our
13 staff is proposing that we incorporate the
14 language contained in their version, in Exhibit
15 86.

16 What I am looking for is Applicant's
17 opinion as to which language is preferable.

18 THE WITNESS: Well, I haven't had a
19 chance to review this one, so --

20 HEARING OFFICER VALKOSKY: Okay. Well,
21 if you could, and we'll just excuse you subject to
22 recall, and we'll continue with the other
23 witnesses. And I'm sure they can provide you more
24 background.

25 THE WITNESS: Okay. And you're

1 specifically interested in the section on
2 hazardous materials starting on page 4; is that --

3 MS. REYNOLDS: Mr. Valkosky, we have
4 actually in Phyllis' -- Phyllis Fox's testimony a
5 red lined version of the proposed changes that we
6 have to staff's testimony. That might be easier
7 for him --

8 HEARING OFFICER VALKOSKY: I think
9 that's an excellent suggestion.

10 MR. THOMPSON: If -- if you would
11 consider temporarily excusing Mr. Mullen, he can
12 review it in the back and then I can recall him --

13 HEARING OFFICER VALKOSKY: That's --

14 MR. THOMPSON: -- in a few minutes to --

15 HEARING OFFICER VALKOSKY: -- precisely
16 what we'll do.

17 We'll just continue with the other
18 witnesses at this time.

19 MR. THOMPSON: All right. Thank you.

20 Applicant would like to call Ms. Amy
21 Cuellar, also in the area of Hazardous Waste
22 Management.

23 Ms. Cuellar has been previously sworn.

24 ///

25 ///

1 TESTIMONY OF

2 AMY CUELLAR

3 called as a witness on behalf of Applicant, having
4 been previously duly sworn, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. THOMPSON:

8 Q Would you please state your name for the
9 record?

10 A Amy Cuellar.

11 Q And Ms. Cuellar, in the area of
12 Hazardous Waste Management, am I correct that your
13 testimony, which is -- which was submitted as part
14 of Exhibit 95, contains the exhibits that you are
15 sponsoring in this area?

16 A Yes.

17 Q And do you have any corrections,
18 additions, or deletions to make to this area?

19 A No.

20 Q And am I correct that most of the
21 material, most or all of the material that was
22 contained herein in this area results from the
23 fact that you are the lead environmental
24 consultant for the project, not that you are
25 specifically trained in the hazardous materials

1 area?

2 A That's correct.

3 MR. THOMPSON: Thank you. Ms. Cuellar
4 is tendered for cross examination at this time.

5 HEARING OFFICER VALKOSKY: Questions.
6 Ms. Holmes?

7 MS. HOLMES: No questions.

8 HEARING OFFICER VALKOSKY: Ms. Reynolds.

9 MS. REYNOLDS: No questions.

10 HEARING OFFICER VALKOSKY: Mr. Ledford.

11 MR. LEDFORD: No questions.

12 HEARING OFFICER VALKOSKY: Questions
13 from anyone here present for Ms. Cuellar?

14 Actually, since you're on the stand --
15 (Laughter.)

16 HEARING OFFICER VALKOSKY: -- not
17 dealing with hazardous materials, but I'm just
18 trying to get an idea if we have any of the waste
19 -- answers to the waste management.

20 MR. THOMPSON: Actually, let me ask Ms.
21 Cuellar and see if this satisfies your request.

22 REDIRECT EXAMINATION

23 BY MR. THOMPSON:

24 Q Ms. Cuellar, were you in the room when
25 Mr. Valkosky asked the question regarding the life

1 of the landfills?

2 A Yes.

3 Q Do you have anything to offer the record
4 on -- in that subject area?

5 A Yes, I do. We contacted Don Shepard at
6 NORCAL during the break, and were informed that
7 they're currently -- with regards to the
8 Victorville landfill, that's referred to on page
9 113 of the staff assessment, that NORCAL is
10 working with San Bernardino County currently to
11 expand that landfill, and they are in the process
12 of obtaining the appropriate permits and approvals
13 to do so. But they do not have an estimated
14 timeline when that permit process will be
15 complete.

16 To take it one step further, if the
17 Victorville landfill is not available for this
18 project, we will bring our waste to the next
19 closest landfill. There's approximately one truck
20 per week of non-hazardous waste from this plant
21 site, so it's a very minimal amount.

22 HEARING OFFICER VALKOSKY: Okay. And
23 the next closest landfill would be which?

24 THE WITNESS: I -- I believe that would
25 be the Barstow landfill, which has an estimated

1 remaining life until the year 2007.

2 HEARING OFFICER VALKOSKY: Okay. And
3 what about after 2007?

4 THE WITNESS: I don't have an update on
5 the Barstow landfill to provide at this time.

6 HEARING OFFICER VALKOSKY: Okay. Thank
7 you.

8 MR. THOMPSON: I realize that statement
9 of Counsel doesn't count for an awful lot, but my
10 suspicion of how this work is that when you get
11 close to the end of the remaining life, five or
12 seven years, you start adding more land that can
13 be used, or -- or acquiring more. I've heard --

14 HEARING OFFICER VALKOSKY: I -- I would
15 assume so. I'm just trying to get some
16 explanation on the record.

17 MR. THOMPSON: I understand.

18 THE WITNESS: I did also learn at the
19 break that typically landfills are not permitted
20 for a very long period of time, so that they can
21 go back and make sure that they don't need to
22 implement additional permit conditions.

23 HEARING OFFICER VALKOSKY: Okay. Thank
24 you.

25 Any other questions on that matter?

1 Thank you, thank you, Ms. Cuellar. I appreciate
2 that.

3 Okay, on Waste Management, Ms. Holmes.

4 MS. HOLMES: Thank you. Staff's
5 witnesses on Hazardous Material Management are
6 Rick Tyler and Joe Loyer.

7 (Thereupon, Rick Tyler and Joe Loyer
8 were, by the Reporter, sworn to tell
9 the truth and nothing but the truth.)

10 TESTIMONY OF

11 RICK TYLER

12 JOE LOYER

13 called as witnesses on behalf of Staff, having
14 been first duly sworn, were examined and testified
15 as follows:

16 DIRECT EXAMINATION

17 MS. HOLMES: Thank you. Do you
18 gentlemen have gentlemen have in front of you
19 revised testimony filed 7/15, which has been
20 identified as Exhibit 86?

21 (Inaudible asides.)

22 MR. TYLER: Yes, we do.

23 MS. HOLMES: And supplemental testimony
24 filed March 25th, which has been identified as
25 Exhibit 84?

1 MR. TYLER: Nope.

2 That's related to traffic and
3 transportation.

4 (Inaudible asides.)

5 MS. HOLMES: And Errata, and witness
6 qualifications filed September 7th, in Exhibit
7 104.

8 (Pause.)

9 MR. TYLER: We do.

10 MS. HOLMES: Thank you.

11 HEARING OFFICER VALKOSKY: Have you
12 identified yourselves for the record?

13 MS. HOLMES: I don't believe they have.

14 MR. TYLER: My name is Rick Tyler.

15 MR. LOYER: My name is Joe Loyer.

16 MS. HOLMES: Thank you. Now that we
17 have all that straight, was this testimony that we
18 have just identified prepared by you or under your
19 direction?

20 MR. TYLER: Yes, it was.

21 MS. HOLMES: And do you have also, or
22 have you reviewed a copy of a letter filed by CURE
23 on September 9th, 1999, which had attached to it
24 the testimony of Phyllis Fox? That testimony
25 contained recommended changes to your proposed

1 conditions of certification.

2 MR. TYLER: Yes, we do.

3 MS. HOLMES: And in light of that
4 document, do you have any changes to make to your
5 testimony?

6 MR. TYLER: We would agree to change,
7 under Haz 5, concurrent with their suggestion, the
8 words to meet the following criteria, and also
9 include in -- in the -- under Item 2 of Haz 5,
10 liquid tight. We have -- we have some concerns
11 with the remaining proposed language.

12 MS. HOLMES: Thank you. Do you have any
13 changes to make to Haz 1?

14 MR. TYLER: No, we do not.

15 MS. HOLMES: Thank you. With those
16 corrections, are the facts contained in your
17 testimony true and correct to the best of your
18 knowledge?

19 MR. TYLER: Yes, they are.

20 MS. HOLMES: And do the opinions
21 contained in your testimony represent your best
22 professional judgment?

23 MR. TYLER: Yes, they do.

24 MS. HOLMES: The witnesses are available
25 for cross examination.

1 HEARING OFFICER VALKOSKY: Mr. Thompson.

2 MR. THOMPSON: No questions.

3 HEARING OFFICER VALKOSKY: Ms. Reynolds.

4 MS. REYNOLDS: Yes.

5 CROSS EXAMINATION

6 MS. REYNOLDS: The Haz 1, the proposed
7 condition Haz 1 states, and I quote, "The project
8 owner shall not use any hazardous material in
9 reportable quantities that is not listed in
10 Appendix B, unless approved by the CPM."

11 My -- the focus of this question is on
12 the last five words. Would the last five words of
13 the condition, in your opinion, allow the
14 compliance project manager to permit the project
15 to use hazardous materials not on the list in
16 Appendix B?

17 MR. TYLER: Normally, any significant
18 change to the conditions of certification, while
19 they would ultimately be made by the CPM, would
20 have to be approved by the Commission. The only
21 -- the only changes staff makes would be very
22 insignificant changes that did not change the
23 intent or the nature of the -- of the analysis, or
24 the basis on which the Commissioners made their
25 decision.

1 To give you an example, if -- if an
2 applicant chose to change a scale inhibitor from
3 one brand to another with just slight changes in
4 chemical composition, those materials were never
5 identified as a problem or potentially -- or
6 capable of causing a potentially significant
7 impact.

8 However, a change such as being -- such
9 as is being suggested in the -- as being of
10 concern in the -- in the added language, the
11 change to anhydrous ammonia would clearly be a
12 significant change and would require an amendment
13 to the project. That would significantly change
14 the -- the base upon which the Commissioners made
15 their decision, and it would also require major
16 equipment changes within the facility, and that
17 could not be done by staff unilaterally.

18 MS. REYNOLDS: My concern is that the
19 last five -- five words could be misconstrued.
20 For example, 20 years down the line, if the
21 project wants to use a different material, could
22 at that point the -- the project owner approach
23 the CPM and say we would like to use this
24 material, and then based on this condition 1 and
25 the last five words, could a reasonable

1 interpretation of that condition meet -- be that
2 the CPM could approve the use of that type of
3 material?

4 MR. TYLER: All I can say is that I
5 can't speak for what may happen 20 years from now.
6 But what I can say is the process, as I've known
7 it the whole time I've worked at the Commission,
8 is that any proposed change goes to staff first.
9 Staff makes recommendations to the CPM regarding
10 whether we feel it is -- is a significant change.
11 Or a trivial change.

12 Even if it's a minor change, it still
13 goes back to the Commissioners for sign-off. But
14 if we believe it's controversial in any way, or
15 that it would require any major change to the
16 project, then we would recommend that it be
17 treated as an amendment to the project and would
18 have -- the whole process would have to come back
19 to the Commission for reconsideration.

20 MS. REYNOLDS: So is your objection to
21 CURE's proposed language that would clarify that
22 the project cannot use anhydrous ammonia or
23 ammonia with a concentration greater than 25
24 percent, is your objection that language based
25 more on the practice of the Commission, rather

1 than the language in proposed condition Haz 1?

2 MR. TYLER: I guess my -- my biggest
3 concern is this reflects on every -- every
4 chemical that we may consider. And, for instance,
5 you say 25 percent ammonia. If, for instance, the
6 Applicant came back and said we can no longer
7 purchase 25 percent ammonia, our supplier will
8 only provide it at 27 percent. If staff went back
9 and reviewed that and found that it didn't
10 significantly change the off site concentrations
11 and wouldn't have significantly affected the
12 outcome or -- or our recommendations or impacts in
13 any significant way, then we may recommend that
14 that's -- that that's fine, without doing a
15 complete amendment to the project. Which I
16 believe would be required under this language.

17 So it restricts flexibility to -- to an
18 extent that -- that I don't think we want -- that
19 we would want to agree with.

20 MS. REYNOLDS: You state in your Errata
21 dated September 7th that the condition as written
22 already restricts the Applicant to the use of
23 ammonia with a 25 percent concentration. I
24 believe, I'll quote, "however, the Applicant is
25 already restricted to this level with the current

1 wording of Haz 1. See Appendix B."

2 But the testimony that you've just
3 provided would seem to allow some flexibility on
4 that issue.

5 MR. TYLER: It would allow some
6 flexibility with -- with staff analysis
7 concurrence, and some analysis to -- provided to
8 suggest that there isn't really any significant
9 change as a result of -- of what's being proposed.
10 If we felt there was any significant change in
11 terms of potential impacts, or that we believe
12 would have in any way influenced -- possibly
13 influenced the Commissioners, then we would
14 recommend that it be treated as an amendment.

15 So it would have to be pretty minor.
16 Changes that would be made by the CPM at staff's
17 recommendations would have to be very minor
18 changes, whereas any really significant change
19 would have to be an amendment to the project.

20 MS. REYNOLDS: But that's not explicitly
21 stated in Haz 1 as written.

22 MR. TYLER: I -- I understand that.
23 That's the way we've normally done it.

24 MS. REYNOLDS: Okay. Thank you.

25 Proposed condition Haz 5, part 3, states

1 that the capacity of the double wall tank shall
2 not exceed 50,000 gallons. But in Appendix B of
3 your testimony, you provide a maximum storage
4 quantity of 100,000 gallons. Is that -- did you
5 intend for that discrepancy, or is that an error?

6 MR. LOYER: That's an error.

7 MS. REYNOLDS: Okay. Will that be
8 corrected -- will Appendix B be corrected to state
9 50,000 gallons?

10 MR. LOYER: Yes.

11 MS. REYNOLDS: Thank you.

12 The proposed condition of certification
13 Haz 5 states, and I'm only going to quote part of
14 it -- oh, I guess we -- you've agreed to that.

15 MR. TYLER: We've agreed to the
16 criteria.

17 MS. REYNOLDS: Thank you.

18 MR. TYLER: We -- we had problems with
19 item 2, the design to minimize the surface area of
20 ammonia release, and the primary reason we had a
21 problem with that is that it is too vague to -- to
22 --

23 MS. REYNOLDS: But in -- on principle,
24 you don't have an objection to an attempt by the
25 Applicant to minimize the surface area of a

1 release of ammonia? Do you believe that that's a
2 good goal; even though it's rather vague is that a
3 good goal, in your opinion?

4 MR. TYLER: As a condition, I can't
5 determine whether they're in compliance with it or
6 not. That's what my -- what my concern is. If --
7 if this had said shall reduce -- shall reduce the
8 surface area to 99 percent, or something like
9 that, to an effective surface area of 99 percent,
10 that's specific. I can -- I can actually
11 determine if the Applicant is in compliance with
12 that requirement. Whereas this one, there could
13 be a lot of debate and argument about whether they
14 have minimized -- what constitutes minimization.

15 But in concept, I understand what you're
16 saying. And -- and I don't, as -- in concept, as
17 long as -- as long -- my concern is really that
18 they meet the intent of -- of the downwind
19 concentration. So whatever is required to do
20 that, that's what -- that's what I would be
21 looking for.

22 MS. REYNOLDS: There are many types of
23 configurations, dimensions, for a bermed area that
24 would be capable of holding the entire contents of
25 the tank plus ten percent; is that correct?

1 MR. TYLER: That's correct.

2 MS. REYNOLDS: So they -- it could be a
3 very, very large area with a very short duct, or
4 it could be a very narrow confinement with a very
5 tall walled area. Is that correct?

6 MR. TYLER: That's correct.

7 MS. REYNOLDS: Is there a direct
8 relationship between the amount of surface area of
9 spill material and the amount of concentrations of
10 ammonia that -- that could reach the property
11 line?

12 MR. TYLER: There is if the -- there is,
13 if the surface area is free to mass transfer to
14 the ambient -- ambient air. If it's covered in
15 any way, then that would not be the case, or if
16 the wall restricts flow there over the pool, then
17 that would not necessarily be the case.

18 MS. REYNOLDS: As written right now,
19 does your condition provide any restrictions on
20 the dimensions of that bermed area? Other than
21 having to contain 110 percent of the contents of
22 the tank.

23 MR. TYLER: No, it does not.

24 MS. REYNOLDS: Are all sumps by
25 definition underground?

1 MR. TYLER: No.

2 MS. REYNOLDS: Okay. I have no further
3 questions.

4 HEARING OFFICER VALKOSKY: Mr. Ledford.

5 MR. LEDFORD: No questions.

6 HEARING OFFICER VALKOSKY: Redirect, Ms.
7 Holmes?

8 MS. HOLMES: No.

9 HEARING OFFICER VALKOSKY: Are there any
10 differences in the hazardous materials concerns
11 attached to the two project configurations?

12 MR. TYLER: You mean the two
13 alternatives that were provided by CURE?

14 HEARING OFFICER VALKOSKY: By the --
15 well, no, I'm sorry, the project configurations,
16 the two train or the three train.

17 MR. TYLER: I don't believe so. They
18 propose the same amount of ammonia storage for --

19 HEARING OFFICER VALKOSKY: Okay.

20 MR. TYLER: -- for --

21 HEARING OFFICER VALKOSKY: So there is
22 no difference.

23 Again, going back to Haz 1, and I think
24 just following up on Ms. Reynolds' questions. If
25 I understood what you're saying correctly, the --

1 the last five lines of that condition are
2 appropriate because it provides staff with a bit
3 of discretion in interpreting and enforcing the
4 condition. Is that correct?

5 MR. TYLER: Some flexibility to make
6 very minor changes without having to -- to go
7 through a full amendment process.

8 HEARING OFFICER VALKOSKY: Okay. But,
9 and this is where I think Ms. Reynolds was getting
10 at, isn't your discretion limited by your
11 attachment which specifies that the ammonia -- the
12 ammonia concentration not exceed 25 percent?

13 MR. TYLER: It -- basically this -- what
14 this language does is says that they must comply
15 with that list of materials in those
16 concentrations, in those amounts, unless they get
17 an approval from the CPM to do something
18 differently.

19 HEARING OFFICER VALKOSKY: Okay.

20 MR. TYLER: So it would allow us, under
21 this language, to make changes in that.

22 HEARING OFFICER VALKOSKY: So that the
23 25 percent -- and again, I realize we're looking
24 at a -- at a compliance, or a potential compliance
25 issue, the 25 percent is not -- the 25 percent

1 concentration is not necessarily absolute.

2 MR. TYLER: That's correct. The way the
3 language reads there would be some discretion to
4 change that.

5 HEARING OFFICER VALKOSKY: Okay.
6 Regarding the question on the -- the sump, you
7 indicated that there's -- all sumps are not
8 necessarily underground sumps. Do you know which
9 is proposed for use at this project?

10 MR. LOYER: At this particular project
11 at this time the Applicant is proposing an
12 underground sump, but they have not given us the
13 final specifications for it.

14 HEARING OFFICER VALKOSKY: Okay. They
15 are proposing an underground sump, so that really
16 the inclusion of that language just reflects what
17 the Applicant is proposing in condition Haz Mat 5.
18 Is that correct?

19 MR. LOYER: That is a fair
20 interpretation.

21 HEARING OFFICER VALKOSKY: Okay. Thank
22 you.

23 Anything else for these witnesses?

24 Thank you, gentlemen.

25 MS. HOLMES: I move the staff's

1 testimony on hazardous materials management be
2 moved into evidence at this time.

3 HEARING OFFICER VALKOSKY: Okay. Is
4 there any objection?

5 There is none. That will be received
6 into evidence.

7 (Thereupon, the Staff's Declarations on
8 Hazardous Material Management contained
9 in Exhibits 86, 84, and 104 were
10 admitted into evidence.)

11 HEARING OFFICER VALKOSKY: Okay. Now, I
12 understand -- well, CURE has a witness. I think
13 it's probably better to allow the presentation of
14 that witness, then we'll recall Applicant's
15 witness. Unless you have strong feelings about
16 it, I --

17 MR. THOMPSON: I don't have any strong
18 feelings about anything this time of the day.

19 (Laughter.)

20 MR. MULLEN: I have a plane to catch,
21 but --

22 MS. HOLMES: Go ahead. We don't have a
23 problem.

24 MR. THOMPSON: Okay. Can I recall? I
25 would like to recall Mr. John Mullen. Mr. Mullen,

1 you are -- have been previously sworn.

2 TESTIMONY OF

3 JOHN MULLEN

4 called as a witness on behalf of Applicant, having
5 been previously duly sworn, was examined and
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. THOMPSON:

9 Q Mr. Mullen, did you have a chance to
10 review and compare the language of the conditions
11 that we had talked about when you previously were
12 on the stand?

13 A Yes, I did.

14 Q And do you have any conclusions to make
15 with regard to those two sets of conditions?

16 A I don't have any problem with these
17 conditions.

18 Q So either set would be acceptable --

19 A Yeah, Haz 1 and --

20 Q -- in your recommendation?

21 A -- Haz 5 is fine.

22 MR. THOMPSON: Great. Thank you very
23 much.

24 Tendered for cross examination on the
25 subject to the sets of -- of conditions.

1 MS. HOLMES: No questions.

2 MS. REYNOLDS: No questions.

3 MR. LEDFORD: No questions.

4 HEARING OFFICER VALKOSKY: Thank you,
5 Mr. Mullen.

6 MR. THOMPSON: Thank you very much, Mr.
7 Valkosky.

8 HEARING OFFICER VALKOSKY: Ms. Reynolds.

9 MS. REYNOLDS: CURE would like to call
10 Dr. Phyllis Fox. And Dr. Fox was previously
11 sworn.

12 TESTIMONY OF

13 PHYLLIS FOX

14 called as a witness on behalf of CURE, having been
15 previously duly sworn, was examined and testified
16 as follows:

17 DIRECT EXAMINATION

18 BY MS. REYNOLDS:

19 Q Dr. Fox, you have with you a document
20 entitled Testimony of J. Phyllis Fox regarding
21 Hazardous Materials Management on behalf of the
22 California Unions for Reliable Energy dated
23 September 10th, 1999.

24 A I do.

25 Q Also marked as Exhibit 90.

1 A Yes.

2 Q Is this the testimony you submitted on
3 behalf of the California Unions for Reliable
4 Energy in this proceeding?

5 A It is.

6 Q Are your qualifications attached to this
7 testimony?

8 A Yes, they are.

9 Q Do you have any changes to your
10 testimony?

11 A No.

12 Q Would you briefly summarize your
13 testimony?

14 A Yes. My testimony involves the two
15 conditions that were previously discussed, Haz 1
16 and Haz 5. In the case of Haz 1, it grants to the
17 CPM broad authority to change the ammonia from 25
18 percent aqueous ammonia to anhydrous ammonia or
19 aqueous ammonia with a higher concentration of
20 ammonia in it. And I believe that's a problem
21 because the impacts of the use of those alternate
22 forms of ammonia have not been evaluated. And
23 given the Energy Commission's regulations, there's
24 no guarantee that that switch in ammonia would be
25 subject to staff or any other review before the

1 switch was made.

2 In the case of Haz 5, some of the
3 problems I had have been cured by the changes that
4 you just heard Mr. Tyler make. However, I still
5 remain concerned about two things in Haz 5.

6 First, the storage area for unloading
7 and -- of the ammonia, which is an underground
8 sump, in staff's conditions it just specifies a
9 sump, which could be either an above ground sump
10 or an underground sump, and I believe it's
11 important to specify here clearly, for the record,
12 that it's an underground sump.

13 And then second, with respect to the
14 containment around the ammonia storage tank
15 itself, there is no limitation or conditions at
16 all placed on the design of that containment. And
17 the exposed surface area of the containment is
18 what determines the impact, the offsite impact of
19 releases. And staff's condition would allow that
20 containment area to be -- to have any -- any
21 surface area whatsoever allowed by the requirement
22 that 110 percent be contained. And all that I'm
23 asking for here is that language be added to make
24 it clear that the Applicant is to make every
25 attempt to minimize that surface area so you would

1 be minimizing offsite impacts.

2 MS. REYNOLDS: We have no further
3 questions, and Dr. Fox is available for cross.

4 HEARING OFFICER VALKOSKY: Mr. Thompson.

5 MR. THOMPSON: No questions, thank you.

6 HEARING OFFICER VALKOSKY: Ms. Holmes.

7 MS. HOLMES: No questions.

8 HEARING OFFICER VALKOSKY: Mr. Ledford.

9 MR. LEDFORD: No questions.

10 HEARING OFFICER VALKOSKY: Dr. Fox,
11 regarding Haz Mat 1, is your chief concern the use
12 of -- the possible approval by the CPM of the use
13 of anhydrous ammonia rather than aqueous ammonia,
14 or is it the possible approval by the CPM of the
15 use of aqueous ammonia in higher than a 25 percent
16 solution?

17 THE WITNESS: My primary concern would
18 be anhydrous ammonia, because it's far more
19 hazardous. But also, a change in the ammonia
20 concentration, depending on its magnitude, could
21 be quite significant as well.

22 HEARING OFFICER VALKOSKY: Now, you
23 heard Mr. Tyler indicate or explain the
24 Commission's typical procedures. Does that give
25 you any degree of comfort or not?

1 THE WITNESS: No, because they're
2 nothing more than policy at this point in time,
3 and as you know, the governor and the politics in
4 the state of California change, the staff change,
5 and a policy can change. It's nothing more than a
6 policy. It's not a law.

7 So just because you follow one policy
8 today doesn't mean that five or ten years down the
9 road the same policy is going to be followed by
10 the same staff.

11 HEARING OFFICER VALKOSKY: Regarding the
12 suggested changes to Haz Mat 5, do you agree with
13 Mr. Loyer's testimony that the -- an underground
14 sump is that which is currently proposed by the
15 Applicant for use at the facility?

16 THE WITNESS: That's my understanding.

17 HEARING OFFICER VALKOSKY: Okay. And
18 could you explain to me again, just a little more,
19 your concerns with the second item in Haz Mat 5,
20 specifically the language and designed to minimize
21 the surface area of an ammonia release? I mean,
22 do you think that the facility will not be
23 designed to minimize it, or -- or you just want
24 that as a specific enforceable criteria and --

25 THE WITNESS: I would like to see that

1 as a specific enforceable criteria.

2 HEARING OFFICER VALKOSKY: Okay. If so,
3 how would you envision enforcing a requirement
4 like that?

5 THE WITNESS: It would have to -- the
6 surface area would have to be determined to assure
7 that there are no significant offsite impacts. In
8 other words, you would have to do an analysis,
9 which I assume has been done, to demonstrate that
10 the concentration of ammonia at the fence line of
11 the facility is less than 75 ppm, which is the
12 criteria. And the surface area that corresponds
13 to that offsite, or fence line concentration would
14 be -- would satisfy this condition.

15 HEARING OFFICER VALKOSKY: Okay. So am
16 I to understand that if -- if there were a maximum
17 surface area specified, that -- that could relieve
18 these concerns?

19 THE WITNESS: It -- the surface area
20 that corresponds to this would have to be selected
21 to assure that there were no fence line or offsite
22 impacts.

23 HEARING OFFICER VALKOSKY: Okay.

24 COMMISSIONER ROHY: Dr. Fox, the way I
25 understood your testimony, let's see if I can

1 relate back to you, is that you would like to see
2 the surface area such that the fence line
3 concentrations in the event of a spill would not
4 exceed 75 parts per million.

5 THE WITNESS: That's correct.

6 COMMISSIONER ROHY: So that is not a
7 specification specifically on the surface area, as
8 much as it is on the concentration at the fence
9 line in the event of spill.

10 THE WITNESS: Right. You could figure
11 out what the corresponding surface area is.

12 COMMISSIONER ROHY: That's correct.

13 THE WITNESS: I don't know that
14 anybody's done that. I haven't done that
15 analysis.

16 COMMISSIONER ROHY: I'd like to ask
17 another question, as long as I own the microphone
18 here.

19 In your opinion and expertise, Dr. Fox,
20 would the Applicant, should they build this
21 facility, need to do any equipment changes if they
22 switched from anhydrous to aqueous ammonia?

23 THE WITNESS: Yes.

24 COMMISSIONER ROHY: Would those changes
25 be significant?

1 THE WITNESS: They --

2 COMMISSIONER ROHY: I'm sorry, I changed
3 the -- I said the question backwards, changed from
4 aqueous to anhydrous. Would your answer be the
5 same after I corrected my question?

6 THE WITNESS: I believe that there would
7 be changes in equipment, yes.

8 COMMISSIONER ROHY: And would those
9 changes be significant?

10 THE WITNESS: Depends on how you define
11 significant.

12 COMMISSIONER ROHY: Let's say costing
13 over half a million dollars. I just picked that
14 number out of the air, I have no expertise in the
15 area. But to me, that's a significant number,
16 personally, but --

17 THE WITNESS: I -- I'm not qualified to
18 answer that.

19 COMMISSIONER ROHY: Thank you.

20 HEARING OFFICER VALKOSKY: Any redirect,
21 Ms. Reynolds?

22 MS. REYNOLDS: No. I would like to move
23 that Exhibit 90, Dr. Fox's testimony, be admitted
24 into the record.

25 And at this time I would also like to

1 move for admission of Exhibit 92, the Joint
2 Environmental Impact Mitigation Proposal of the
3 Applicant and CURE. This was signed by myself and
4 Allan Thompson. So as long as no one has any
5 objections to that, I'd like to enter that, too.

6 MR. THOMPSON: Allan Thompson certainly
7 doesn't.

8 HEARING OFFICER VALKOSKY: Is there any
9 objection to the admission of Exhibits 90 and 92?

10 Hearing none, thank you, they'll be
11 received into evidence.

12 (Thereupon, Exhibits 90 and 92 were
13 admitted into evidence.)

14 HEARING OFFICER VALKOSKY: Any questions
15 on Hazardous Materials from anyone?

16 Thank you, Dr. Fox.

17 (Thereupon, a recess was taken.)

18 HEARING OFFICER VALKOSKY: -- at which
19 time we will take a short recess. The Committee
20 will enter into deliberations and we'll reconvene
21 and discuss the matter of the subpoenas. So
22 that's the balance of today.

23 Okay, Visual Resources.

24 MR. THOMPSON: Thank you. Applicant
25 would like to recall Mr. Thomas Barnett. Mr.

1 Barnett has been previously sworn.

2 TESTIMONY OF

3 THOMAS BARNETT

4 called as a witness on behalf of Applicant, having
5 been previously duly sworn, was examined and
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. THOMPSON:

9 Q M. Barnett, you have submitted testimony
10 which is now contained in what is called Exhibit
11 95, a part of which concerns Visual Resources. Is
12 that correct?

13 A That is correct.

14 Q And as the Constellation Project
15 Manager, your testimony in Visual Resources in the
16 area that you are most able to answer questions
17 would be from a total project standpoint, not the
18 technical or engineering side of this; is that
19 correct?

20 A That is correct.

21 Q Thank you very much. Do you have any
22 summary or anything to add for the record at this
23 time?

24 A No, I do not.

25 MR. THOMPSON: Thank you. Mr. Barnett

1 is tendered for cross examination on the Visual
2 Resources area.

3 HEARING OFFICER VALKOSKY: Questions
4 from any of the parties?

5 MS. HOLMES: No.

6 MR. LEDFORD: No.

7 MS. REYNOLDS: No.

8 Okay. Oh, I -- actually, I do have a
9 question.

10 Mr. Barnett, what is the present height
11 of the exhaust stacks for the project?

12 THE WITNESS: One hundred and thirty
13 feet.

14 HEARING OFFICER VALKOSKY: Okay. And
15 that's for both the three F and the two G
16 configurations?

17 THE WITNESS: That's correct, although
18 with one configuration, of course, there would be
19 three stacks; with the other, two.

20 HEARING OFFICER VALKOSKY: Right. But I
21 --

22 THE WITNESS: The stack height would be
23 the same.

24 HEARING OFFICER VALKOSKY: Thank you.

25 MR. THOMPSON: Thank you. Applicant

1 would like to enter Exhibit 38 into the record,
2 please.

3 HEARING OFFICER VALKOSKY: Is there
4 objection to receiving 38?

5 There is none. So ordered.

6 (Thereupon, Exhibit 38 was admitted
7 into evidence.)

8 HEARING OFFICER VALKOSKY: Ms. Holmes.

9 MS. HOLMES: Staff's witness on Visual
10 Resources is Gary Walker.

11 (Thereupon, Gary Walker was, by the
12 Reporter, sworn to tell the truth and
13 nothing but the truth.)

14 TESTIMONY OF

15 GARY WALKER

16 called as a witness on behalf of the Staff, having
17 been first duly sworn, was examined and testified
18 as follows:

19 DIRECT EXAMINATION

20 BY MS. HOLMES:

21 Q Good afternoon, Mr. Walker. Please
22 state your name for the record.

23 A Gary Walker.

24 Q Just trying to move things along.

25 Do you have with you a copy of the staff

1 assessment which has been identified as Exhibit
2 82?

3 A I have my section of it, yes.

4 Q Thank you. And Errata on Visual
5 Resources that were filed on 4/9/99, which has
6 been identified as Exhibit 85, and 9/7, which has
7 been identified as Exhibit 104?

8 A Yes.

9 Q And your witness qualifications were
10 contained in Exhibit 104?

11 A Yes.

12 Q Were those documents that we've just
13 identified prepared by you or under your
14 direction?

15 A By me, yes.

16 Q Do you have any changes or corrections
17 to them?

18 A No.

19 Q Are the facts contained in those
20 documents true and correct to the best of your
21 knowledge?

22 A Yes.

23 Q And do the opinions contained in those
24 documents represent your best professional
25 judgment?

1 A Yes.

2 MS. HOLMES: Mr. Walker is available for
3 cross examination.

4 HEARING OFFICER VALKOSKY: Mr. Thompson.

5 MR. THOMPSON: No questions, thank you.

6 HEARING OFFICER VALKOSKY: Ms. Reynolds.

7 MS. REYNOLDS: No questions.

8 HEARING OFFICER VALKOSKY: Mr. Ledford.

9 MR. LEDFORD: Thank you.

10 CROSS EXAMINATION

11 BY MR. LEDFORD:

12 Q At page 194, you -- your testimony is
13 that the -- that the visible plumes would occur
14 and be visible from viewpoints throughout the
15 viewshed. You also state that those plumes
16 wouldn't be visible for any significant distance
17 downwind. On what basis do you make that
18 determination?

19 A Exactly where are you referring to?

20 Q I'm -- it's on page 194, and it starts
21 Exhaust Stack Plumes. Basically looking at the
22 first sentence, and then your last sentence, next
23 to last sentence. It appears as though you're
24 concurring with what High Desert Power says, but
25 my question is, why?

1 A I had this report reviewed by our
2 technical staff, and they found it to be
3 reasonable.

4 Q There's a footnote down at the bottom of
5 the page that talks about other -- other projects,
6 a couple of footnotes, perhaps, which you went out
7 and apparently attempted to get information on --
8 on visual plumes but were not able to get that
9 information. Is that -- is that a correct
10 analysis of what that footnote says?

11 A The Applicant actually went -- went out
12 to get the information, not staff.

13 Q Okay. So they went out to get
14 information, and they told you they couldn't get
15 any. So I'm just trying to -- I didn't see the
16 reports, and I -- and it's a little difficult to
17 understand what this says. I'm trying to -- so
18 there's some other document out there that says
19 that -- that the Applicant submitted, that said
20 that this is not significant?

21 A Well, they said that, as I said here,
22 information about the ACE Cogeneration facility
23 with cooling towers and the same meteorology, and
24 they -- it stated that no data regarding visible
25 plumes had been gathered, but they had also stated

1 that no visible plumes had been noted at that
2 facility.

3 Q Would the -- would the bottom line be
4 that you -- that the staff hasn't done any
5 independent analysis of -- of visual plumes for
6 this project site, then?

7 A We didn't do our own modeling. We did a
8 technical review of the Applicant's modeling, and
9 found it to be reasonable.

10 Q All right. In your Errata that you
11 submitted, you've done some analysis relative to
12 the dry cooling, and you also acknowledge the
13 State Water Resources Control Board Resolution
14 7558, which discourages the use of inland water.
15 And my question to you would be there's obviously
16 some visual impact if there are plumes. I think
17 your analysis was that part of -- or perhaps High
18 Desert's, was there might be as much as eight
19 percent of the time.

20 If we went with -- with dry cooling on
21 this project, that would entirely eliminate that.

22 A Yes.

23 Q And so the better of the two options,
24 based on visual resources, would be to go with dry
25 cooling.

1 A From a perspective of plumes.

2 Q Visual Resources.

3 A Well, in respect to Visual Resources
4 with regard to plumes, it would be.

5 Q All right.

6 A However, the use of dry cooling would
7 require a larger cooling structure than the
8 cooling towers required for wet cooling. But, as
9 I said in my Errata, overall, the use of dry
10 cooling would reduce the visual impacts.

11 Q It would be -- it would be the better of
12 the two alternatives.

13 A Yes.

14 Q Is that correct? From a visual
15 standpoint.

16 A Yes.

17 MR. LEDFORD: Thank you. No further
18 questions.

19 HEARING OFFICER VALKOSKY: Mr. Walker,
20 the -- in your --

21 MS. HOLMES: Mr. Valkosky, the reporter
22 can't hear you.

23 HEARING OFFICER VALKOSKY: I'm sorry.

24 Mr. Walker, is the eight percent of the
25 time a cooling tower plume would be visible

1 significant, in your judgment?

2 THE WITNESS: Not in this case,
3 particularly given the relative distance -- well,
4 relatively great distance of the site from
5 populated areas.

6 HEARING OFFICER VALKOSKY: On page --
7 page 196 of your testimony, under cumulative
8 impacts, you indicate that construction of
9 additional large scale facilities could have a
10 noticeable cumulative effect on sensitive
11 receptors. Could you -- could you explain that
12 sentence a little bit more to me?

13 THE WITNESS: Well, it relates to
14 potential future development at SCIA. And if
15 there were a number of similarly sized facilities
16 built along that plateau edge, then instead of one
17 apparently small facility from that distance, a
18 whole row of them could become quite noticeable.

19 HEARING OFFICER VALKOSKY: Okay. Are
20 you aware of any other --

21 THE WITNESS: No.

22 HEARING OFFICER VALKOSKY: -- such
23 projects?

24 THE WITNESS: No.

25 HEARING OFFICER VALKOSKY: Okay. So --

1 so that is merely a potentiality, rather than any
2 impact attributable to the present project; is
3 that correct?

4 THE WITNESS: Yes. That's right.

5 HEARING OFFICER VALKOSKY: Thank you.

6 Any redirect, Ms. Holmes?

7 MS. HOLMES: One question.

8 REDIRECT EXAMINATION

9 BY MS. HOLMES:

10 Q Mr. Walker, could you please explain the
11 kind of modeling analysis that you referred to in
12 your earlier response to Mr. Ledford, and why it
13 is that you rely on those kinds of analyses in
14 your testimony?

15 A Well, they're air quality modeling
16 analyses that quite technical and beyond the scope
17 of my own expertise, therefore I asked for the
18 assistance of our air quality staff who has the
19 expertise to review that type of information.

20 MS. HOLMES: Thank you. I have no
21 additional questions.

22 HEARING OFFICER VALKOSKY: Any recross?

23 MR. LEDFORD: No.

24 HEARING OFFICER VALKOSKY: Any questions
25 from anyone else for Mr. Walker, or on the topic

1 of Visual in general?

2 Okay. Thank you, Mr. Walker.

3 All right. At this point, is there any
4 public comment on the substantive areas with which
5 we've dealt today?

6 Okay, there is none.

7 We will now recess until 5:35, at which
8 time we'll reconvene and hopefully finish up
9 discussing the issues on the subpoenas.

10 (Thereupon, a recess was taken.)

11 HEARING OFFICER VALKOSKY: All right.

12 While we were off the record the Committee
13 deliberated on the issue of the two outstanding
14 requests for subpoena filed by Mr. Ledford, and
15 concluded as follows.

16 First, the Committee has absolutely no
17 desire and will not permit any party -- or will
18 not prevent, excuse me, any party from being able
19 to make its case as fully as possible. That is,
20 however, qualified by the -- the word "relevant".
21 The Committee is -- has the authority and is
22 interested only in relevant non-cumulative
23 information.

24 Much of the argument that has been
25 presented today appears to the Committee to be

1 based on speculation as to what could be produced,
2 what another party may produce, what the answers
3 would be. This causes the Committee a bit of
4 discomfiture.

5 On the other side, however, staff has
6 indicated that they will be producing a witness
7 from the Victor Valley Water District. Applicant
8 has also indicated a renewed awareness and
9 willingness to address some of the issues raised
10 by Mr. Ledford previously. I would also add that
11 it may be in Applicant's benefit in achieving its
12 burden if it could produce the voluntary
13 appearance of one or more representatives of the
14 MWA.

15 All that being taken into consideration,
16 the Committee has decided thus. Mr. Ledford, we
17 will hold action on your subpoenas in abeyance
18 pending presentations by the parties at the
19 October 7th and 8th hearings dealing with air
20 quality -- or, excuse me, dealing with water
21 quality. If at such time you feel the need to
22 renew your motions we will entertain them then,
23 given -- and at that time the Committee will have
24 a better understanding of the evidence that has
25 been presented by the parties, and a better

1 understanding of the issues.

2 In other words, the Committee feels that
3 your requests at this time are premature. They
4 are not, however, denied with prejudice. You do
5 have a right to renew them following the water
6 quality hearings.

7 Any questions?

8 MR. THOMPSON: I have one question, Mr.
9 Valkosky. It appears that there is some burden
10 here on Applicant to produce more information in
11 response to Mr. Ledford's questions, and we would
12 like to do that. If we file supplemental
13 testimony, may we file it prior to September --
14 October 1?

15 HEARING OFFICER VALKOSKY: There --
16 there is a September 30th filing date for
17 rebuttal. Can you meet that date? That's two
18 weeks from today.

19 MR. THOMPSON: Yes, we can.

20 HEARING OFFICER VALKOSKY: You may file
21 that on September 30th.

22 I'm sorry, just a minute, Mr. Ledford.

23 MS. HOLMES: I had one comment, which is
24 in reference to your characterization of Mr. Hill.
25 And that is that Mr. Hill indicated that he might

1 want to testify, and I told him staff would be
2 happy to assist him in that effort. He provided a
3 letter, as you're aware, that he said could
4 provide the basis of his testimony.

5 We're not planning to call him if he's
6 not willing or wanting to testify.

7 HEARING OFFICER VALKOSKY: I would
8 recommend that you use your best offices and
9 persuade him to testify.

10 MS. HOLMES: Thank you.

11 MR. LEDFORD: That was my -- my follow-
12 on. We have a number of people that are qualified
13 witnesses to talk about water that seem to want to
14 talk to lawyers before they say whether they'll
15 show up or not. And I -- I also talked to Randy
16 Hill. He indicated a willingness to be there, but
17 not be there for the whole time or be there
18 subject to being called as a witness. So my
19 feeling was that he may need to be subpoenaed, as
20 well, if we can't define that he will be there.

21 I -- I'm having a real hard time with
22 this, because the process is an informational
23 gathering process. It's a -- it's a process, the
24 CEQA process is a process of gathering data for a
25 CEQA equivalent document, because your

1 certification process has one goal, one part of
2 the goal, but the document, the ultimate document
3 is a document that both of these agencies, the
4 Victor Valley Water District would ultimately, as
5 probably VEDA, the Victor Valley Economic
6 Development Authority, in their role as -- as the
7 owner of the site -- they actually own the land
8 that they'll be leasing to these folks -- and the
9 Mojave Water Agency, and we're not real sure who's
10 on first base with them, is it the City of
11 Victorville, the Victor Valley Economic
12 Development Authority, or Victor Valley Water
13 District, which one of those entities actually is
14 going to try to make a contract with MWA.

15 So we've got a lot of pieces in that
16 puzzle --

17 HEARING OFFICER VALKOSKY: And I would
18 suggest that it is incumbent upon the Applicant to
19 put those pieces into place. And that is what the
20 Committee expects will happen.

21 MR. LEDFORD: I -- I understand where
22 the burden is. I also understand how the evidence
23 sometimes plays in decision making processes, and
24 I'm very concerned at this time that there's a lot
25 of stonewalling going on.

1 HEARING OFFICER VALKOSKY: Well, again,
2 that's -- that's why we'll have the hearings. And
3 I think as you've seen today, we won't tolerate
4 stonewalling. You will have a right to renew your
5 requests at the conclusion of the water hearings.

6 MR. LEDFORD: Would that be --

7 HEARING OFFICER VALKOSKY: The Committee
8 will then fundamentally determine whether it views
9 any additional requests as relevant or as needed
10 to assist it in its determinations.

11 I would like to make one clarification.
12 We will -- we will reconsider your requests at
13 that time. There is no further action that you
14 need take, except at some point in the future at
15 those hearings we'll ask you if you wish to --
16 with to have the subpoenas issued, after the
17 evidence by the parties has been in.

18 MR. LEDFORD: Is this going to be a
19 denial with prejudiced order on the -- on the
20 application, or how does this -- I guess my
21 question is --

22 HEARING OFFICER VALKOSKY: It's exactly
23 the opposite.

24 MR. LEDFORD: Oh, that --

25 HEARING OFFICER VALKOSKY: It's close to

1 the opposite. A denial with prejudice means you
2 can't renew that request.

3 MR. LEDFORD: Without prejudice, then.
4 I'm sorry.

5 HEARING OFFICER VALKOSKY: No, I
6 wouldn't even say it's a denial. I'd say it's a
7 --

8 MR. LEDFORD: It's a deferral.

9 HEARING OFFICER VALKOSKY: -- a
10 deferred, a deferred consideration of it.

11 MR. LEDFORD: And do I have the option
12 of appealing that decision?

13 HEARING OFFICER VALKOSKY: You can
14 appeal any order of the Commission.

15 MR. LEDFORD: Okay. I was just --

16 HEARING OFFICER VALKOSKY: Under Section
17 1215 of our -- any order of the Committee.

18 MR. LEDFORD: I'm just not familiar with
19 how the process works.

20 HEARING OFFICER VALKOSKY: Within
21 whatever period is specified. I believe it's in
22 Section 1215 of our Regulations.

23 MR. LEDFORD: I know you know I'm
24 impassioned about the issues, and --

25 HEARING OFFICER VALKOSKY: I understand

1 that.

2 MR. LEDFORD: Thank you very much.

3 HEARING OFFICER VALKOSKY: Are there any
4 closing comments?

5 MR. THOMPSON: If the remark about
6 stonewalling was intended toward this table, we
7 take exception, and would remind Mr. Ledford that
8 there are responsibilities that go along with
9 Intervenor status. We heard earlier today that he
10 was not familiar with our Application for
11 Certification. I would suggest that the
12 arrangements with the water agencies whereby we
13 will be contracting for water and where water will
14 be delivered is in the record.

15 He can ask our witnesses to explain it
16 or further elucidate on what is currently in the
17 record, but to cast aspersions upon our conduct
18 based upon his lack of understanding of what's in
19 the record I think is -- is wrong.

20 HEARING OFFICER VALKOSKY: The Committee
21 did not interpret that as casting any aspersions
22 on anyone.

23 Anything further?

24 Thank you. With that, the next hearing
25 will be as scheduled, September 30th, possibly

1 continuing to October 1st.

2 We're adjourned.

3 (Thereupon, the Evidentiary Hearing on
4 the High Desert Power Project before the
5 California Energy Commission was
6 adjourned at 5:45 p.m.)

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CERTIFICATE OF REPORTER

I, DEBI BAKER, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Evidentiary Hearing; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
Evidentiary Hearing, nor in any way interested in
the outcome of said Evidentiary Hearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 24th day of September, 1999.

DEBI BAKER

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345